

**GUAM ANCESTRAL LANDS COMMISSION
SPECIAL MEETING MINUTES
Via Zoom with Live-Streaming on YouTube
March 20, 2023 • 2:06 p.m. to 2:53 p.m.**

CALL TO ORDER

Chairman Eclavea called to order the virtual, special meeting of the Guam Ancestral Lands Commission (GALC) at 2:06 p.m. In compliance with Public Law 24-109, GALC published notices of the meeting in *The Pacific Daily News* on Monday, March 13, 2023 and Friday, March 17, 2023.

ROLL CALL

Executive Director Burch took roll call and stated they had a quorum.

Commission Members Present

Ronald F. Eclavea, Chairman
Maria G. Cruz, Secretary/Treasurer
Angela M. Camacho, Commissioner
Louisa F. Wessling, Commissioner

Absent

Ronald T. Laguana, Vice Chairman
Anita F. Orlino, Commissioner
Jeffrey B. Rios, Commissioner

Management and Staff Present

John T. Burch, Executive Director
Catherine T. C. Blas, Program Coordinator III
Teresa Topasna, Administrative Assistant
Joey Leon Guerrero, Land Agent III
Antolin Mendiola, Land Agent I
Mara Perez, Word Processing Secretary

Absent

Sandra Miller, Legal Counsel, Office of the Attorney General (OAG)

GALC FY24 REVISED BUDGET PROPOSAL
(This may be found in the meeting packet)

Executive Director Burch explained their FY24 Budget Proposal needed to be revised due to an increase in costs. He said their personnel and benefits costs went up, because Cathi Blas and Andy Mendiola, formerly Limited Term Appointments (LTAs), were

now classified employees. They also hired Teresa Topasna, a lateral transfer from CHamoru Land Trust. He said they had originally budgeted for an entry level pay scale for her position. He added they recently received from the Governor's Office a GG1 for a Salary Adjustment to increase his salary. He stated these personnel costs amounted to an increase of \$33,870.00. The Executive Director said this does not take into consideration the newly proposed 22% pay increase for GovGuam employees. He stated other increasing costs brought their overall projection up by \$48,960.00 from what they had originally projected. These other costs include office supplies, fuel for the official vehicle, stipends, subscriptions, and training. Executive Director Burch went on to explain their operational account—the Survey, Infrastructure, and Development account (SIDF) — was fixed at \$408,553. He said any increase would have to come from the General Fund and approved by the Legislature. He stated they currently get \$90,000 from the General Fund, so their revised budget proposal would increase that to approximately \$138,000. The Executive Director concluded by saying they needed to submit their revised FY24 Budget Proposal to the legislative Office of Finance and Budget by April 19.

The Chairman asked how the proposed 22% pay increase for GovGuam employees would affect their budget.

The Executive Director said if the 22% pay increase becomes law, then they could take that into account by submitting a supplemental budget. He stated they are prepared for that situation; it would cost them \$80,655 more over current salary and benefits.

Commissioner Camacho asked the Executive Director to walk them through the changes in the budget.

Executive Director Burch said the majority of the increases come from the personnel changes. He explained the following:

1. The original proposed budget, approved by the Board, listed \$31,076 under Salaries in the General Fund. The revised budget proposal changes this to \$26,520. He said this was because they removed the Administrative Assistant's salary from the General Fund and placed it into the SIDF account. The Word Processing Secretary's salary was removed from the SIDF account and placed into the General Fund.
2. The original proposed amount under Benefits in the General Fund was \$18,455. The revised proposal changes this to \$11,665. The original proposed budget listed \$97,044 under Benefits in the SIDF account. The revised proposal changes this amount to \$109,350.
3. The original proposed amount for all salaries and benefits was \$362,431. The revised proposal changes this to \$396,301, an increase of \$33,870.

The Board discussed the other, smaller increases including legal services and internet services.

Commissioner Camacho asked if their office staffing was adequate.

The Executive Director replied it's adequate for now, but he can't afford to have one person absent. He added their budget was a bare-bones one.

Motion by Secretary/Treasurer Cruz to approve the Revised Budget (Proposal) for FY24 as presented by the Executive Director today. Motion seconded by Commissioner Wessling. There was no further discussion. The Chairman called for a vote. Motion passed 4-0.

ADJOURNMENT

Motion by Commissioner Wessling to adjourn. The Chairman, hearing no objection, adjourned the meeting at 2:53 p.m.

Additional Remarks: Please refer to the Office of Public Accountability's (OPA) website for the GALC Board Meeting Audio Recording for detailed information.

APPROVED BY:

DATE APPROVED:

Ronald F. Eclavea, Chairman
Guam Ancestral Lands Commission

PREPARED BY:

Mara Perez, Word Processing Secretary
Guam Ancestral Lands Commission

REVIEWED AND APPROVED BY:

John T. Burch, Executive Director
Guam Ancestral Lands Commission

**GUAM ANCESTRAL LANDS COMMISSION
SPECIAL MEETING MINUTES
Via Zoom with Live-Streaming on YouTube
March 27, 2023 • 2:08 p.m. to 3:11 p.m.**

CALL TO ORDER

Vice Chairman Laguana called to order the virtual, special meeting of the Guam Ancestral Lands Commission (GALC) at 2:08 p.m. In compliance with Public Law 24-109, GALC published notices of the meeting in *The Pacific Daily News* on Monday, March 20, 2023 and Friday, March 24, 2023.

ROLL CALL

Executive Director Burch took roll call and stated they had a quorum.

Commission Members Present

Ronald F. Eclavea, Chairman (logged on at approximately 2:20 p.m.)

Ronald T. Laguana, Vice Chairman

Maria G. Cruz, Secretary/Treasurer

Angela M. Camacho, Commissioner

Anita F. Orlino, Commissioner

Louisa F. Wessling, Commissioner (logged off at approximately 2:50 p.m.)

Absent

Jeffrey B. Rios, Commissioner (excused)

Management and Staff Present

John T. Burch, Executive Director

Sandra Miller, Legal Counsel, Office of the Attorney General (OAG)

Catherine T. C. Blas, Program Coordinator III

Teresa Topasna, Administrative Assistant

Joey Leon Guerrero, Land Agent III

Antolin Mendiola, Land Agent I

Mara Perez, Word Processing Secretary

GALC FINANCIAL INVESTMENTS

Executive Director Burch presented the following report (given here in full):

GALC Financial Investments:

On February 20, 2023, the transfer of Eight Million Dollars and Zero Cents (\$8,000,000.00) from the GALC Trust Savings Account 0100 at Coast360, split equally between the Asia Pacific Group of Raymond James and the Bank of Guam Investment Services, Inc., with instructions to invest these funds conservatively was completed. Attached for your review are the Investment Reports for the month of February 2023 from both Financial Investment Firms.

On February 27, 2023, Coast360 Federal Credit Union made an offer to the Guam Ancestral Lands Commission to invest its funds into their Special Term Share Promotion with rates as high as 4.40% APY. At their discretion, Coast360 may waive early withdrawal penalties to avail of the twenty-four (24) month Term Share, “provided that the funds are not withdrawn within six (6) days from the account opening per regulatory requirements, and that the funds are being withdrawn for purposes directly related to the mission and objectives of the Commission, i.e. payout to land owners or payment for the development of properties.” Subject to the availability of the promotion rates. See Coast360 Special Term Share Promo below and the attached letter from Coast360.

Coast360 recommends the Commission consider establishing a Business Money Market Savings Account to increase returns on its current savings account balances through higher rates with greater compounding frequencies. This is a high yield savings account. The benefits are: *Money remains liquid*; No monthly service fee when you keep a \$2,500 daily balance, Dividends are paid monthly, and write up to six checks per month. See Coast360 Money Market Rates below.

Certificates of Deposit (CDs) and Share Certificates are low-risk deposit accounts where funds can grow at a fixed rate. The main distinction between them is that CDs are products offered by for-profit banks, while Share Certificates are offered by member-owned, not-for-profit credit unions.

For comparison, Raymond James and BG Investment Services Certificates of Deposit Rates are listed below. And to provide options for investment, I attached three draft resolution templates for your review and consideration.

As a note of interest, the U.S. Federal Reserve recently raised interest rates again a quarter-point, a range of 4.75 to 5 percent matching last month’s increase in hopes of cooling inflation. This is the ninth rate increase in a year with a projection of at least one more rate increase this year.

Thank you for the opportunity to present this update. Please let me know if further information is required.

ATTACHMENTS

Coast360 Special Term Share Promo Effective February 6, 2023

Minimum \$2,500 required to establish account.	
Term	Rate (APY)
6 months	2.75%
9 months	3.60%
12 months	4.30%
24 months	4.40%
36 months	4.10%

Coast360 Business Money Market Rates Effective October 1, 2021

APY	Min. Deposit Req.	Min. Balance to earn APY
0.30%	\$2,500.00	\$2,500 - \$9,999.99
0.30%		\$10,000 - \$24,999.99
0.35%		\$25,000 - \$49,999.99
0.35%		\$50,000 - \$99,999.99
0.35%		\$100,000 and over

BG Investment Services Certificates of Deposit Rates as of February 9, 2023

Term	Rate (APY)
1 month	4.30%
2 months	4.40%
3 months	4.55%
6 months	4.65%
9 months	4.70%
12 months	4.70%
18 months	4.70%
24 months	4.65%

BG Investment Services Money Market Rates`` as of February 15, 2023

Money Market Fund	Rate (APY)
Fidelity Government Cash Reserves	4.20%

Raymond James Long Term Certificates of Deposit Rates as of March 1, 2023

Term	Rate (APY)
1 year	5.10%
2 years	5.00%
3 years	4.75%
4 years	4.65%
5 years	4.60%

Raymond James Short Term Certificates of Deposit Rates as of March 1, 2023

Term	Rate (APY)
3 months	4.80%
6 months	4.95%
9 months	5.00%
1 year	5.10%

Coast360 Trust for Guam Ancestral Lands Commission Account Balances as of February 17, 2023

ACCOUNT NUMBER	ACCOUNT NAME	MATURITY DATE	INTEREST RATE	AVAILABLE	BALANCE
0100	Trust Share Savings		0.25	1,120,523.26	1,120,528.26
0101	Landowner's Recovery Fund		0.25	5,040.99	5,040.99
0102	SID Fund		0.25	748,948.97	748,948.97
0200	Checking Operations Fund		0.23	1,000.68	1,000.68
0409	3 Month Jumbo Term Share	5/6/2023	0.45	907,041.09	1,007,041.09
0410	3 Month Jumbo Term Share	5/6/2023	0.45	907,041.09	1,007,041.09
0416	3 Month Jumbo Term Share	3/15/2023	0.45	459,742.53	559,742.53
0417	3 Month Jumbo Term Share	3/15/2023	0.45	240,202.24	340,202.24
0418	3 Month Jumbo Term Share	3/20/2023	0.45	2,586,432.83	2,686,432.83
0420	3 Month Jumbo Term Share	3/15/2023	0.45	245,730.27	345,730.27
	TOTAL SHARES			7,221,703.95	7,821,708.95

Following his report, the Executive Director explained the special meeting was called to address the letter received from Ms. Monica L. Pido, Chief Operations Officer at Coast360 Federal Credit Union (please see attached). He also mentioned the recent bank failures in the U.S. He reminded the Board they still have 7.9 million dollars at Coast360, which the National Credit Union Administration (NCUA) insures only up to \$250,000. He said Ms. Pido's offer was a lot better than what they currently have at Coast360. He advised a ladder type of investment no longer than 12 months at Coast360, if the Commission decides to take their offer.

The Board discussed their investment options. There was also a discussion regarding GovGuam's procurement laws. AAG Miller stated it may be troublesome to accept Coast360's offer when Coast360 was not procured correctly to begin with. She asked the Board what the advantage was to stay with Coast360 if the interest is low, and it wasn't properly procured. She said it was the Board's decision to make. AAG Miller added it would be very easy to put out another procurement, and Coast360 could respond to it.

The Chairman asked if one of the Executive Director's 3 draft resolution templates could be used for this. Executive Director Burch said Draft Resolution 2023-002 could be used; he said he could work out the actual numbers to make it \$6,000,000.00.

Motion by Secretary/Treasurer Cruz to approve Draft Resolution 2023-002 to transfer \$6,000,000.00 from GALC's Coast360 accounts to be equally split between the Asia Pacific Group of Raymond James and Bank of Guam Investment Services, Inc. with the instructions to continue to invest the funds conservatively. Motion seconded by Commissioner Camacho. There was no further discussion. The Chairman called for a vote. Motion passed, 5-0.

The Executive Director said he would have the documents ready for signatures by tomorrow.

ADJOURNMENT

Motion by Secretary/Treasurer Cruz to adjourn. The Chairman, hearing no objection, adjourned the meeting at 3:11 p.m.

Additional Remarks: Please refer to the Office of Public Accountability's (OPA) website for the GALC Board Meeting Audio Recording for detailed information.

APPROVED BY:

DATE APPROVED:

Ronald F. Eclavea, Chairman
Guam Ancestral Lands Commission

PREPARED BY:

Mara Perez, Word Processing Secretary
Guam Ancestral Lands Commission

REVIEWED AND APPROVED BY:

John T. Burch, Executive Director
Guam Ancestral Lands Commission



February 27, 2023

Mr. John T. Burch, Executive Director
Mr. Ronald F. Eclavea, Chairman
Guam Ancestral Lands Commission
P.O. Box 2950
Hagatna, GU 96932

Dear Mr. Burch and Mr. Eclavea:

Thank you for making the time to meet with Gener and me on February 16, and for providing us with greater insight of the recent decisions and developments of the Commission. We appreciate the candor and transparency afforded us during our discussions.

The following is a brief summary of the key points in our discussion, with the primary focus on options that will increase the returns on the funds currently placed with Coast360.

As you know, Coast360 is currently running a Term Share promotional campaign with rates as high as 4.40% APY for a fixed term of 24 months. Concerns were raised with the penalties that may apply should the funds be withdrawn prior to its maturity.

In response, Coast360 advises that it may, at its discretion, waive early withdrawal penalties, provided that the funds are not withdrawn within six (6) days from the account opening per regulatory requirements, and that the funds are being withdrawn for purposes directly related to the mission and objectives of the Commission; i.e. payout to land owners or payment for the development of properties.

Coast360 recommends that the Commission consider establishing a Money Market Savings Account to increase returns on its current savings account balances through higher rates with greater compounding frequencies.

I have also attached a projection of earnings should you decide to avail of the Term Share Promotions within the month of March along with the above recommended Money Market Savings Account. The projected earnings are based on a sample distribution of the funds between the different account types. The earnings will vary based on how the Commission allocates the funds between these accounts. Please note that our Term Share promotional campaign is being offered for a limited time only and may be discontinued at any time, at the discretion of the credit union. Enclosed is a Membership Account Booklet and Account Disclosures for your review.

Please do not hesitate to contact me directly should you have additional questions or concerns.

Sincerely,

Monica L. Pido
Chief Operations Officer

Copy: Gener F. Deliquina, Chief Executive Officer



(3) (4) Recommend early redemption of your 3 month Term Share Accounts #0409 & #0410; early withdrawal penalties are \$12.42 daily and may be waived if only to avail of the 24 month Term Share Promotion

(5) (6) (7) (8) Recommend converting your 3 month Term Share Accounts #0416, #0417, #0418, & #0420 at maturity to new 24 month Term Share Promotion Accounts.

MEMORANDUM**Date: April 12, 2023****To: All Members, Guam Ancestral Lands Commission****From: Executive Director****Re: Executive Director's Report**

RFP GALC-22-001 - Independent Audit Services:

The legal issues identified by the Attorney General's Office with the Audit Contract between GALC and Ernst & Young LLP for Independent Audit Services are being addressed and should be completed by the end of this week.

Transfer of Funds to Investment Firms:

The transfer of Six Million Dollars and Zero Cents (\$6,000,000.00) from the GALC Trust Savings Account 0100 at Coast360, split equally between the Asia Pacific Group of Raymond James and the Bank of Guam Investment Services, Inc., with instructions to invest these funds conservatively was completed by March 31, 2023. The following are the account balances remaining at Coast360 Federal Credit Union.

COAST360 TRUST FOR GUAM ANCESTRAL LANDS COMMISSION April 3, 2023

Account Number	Account Name	Maturity Date	Interest Rate	Available	Balance
0100	Trust Share Savings		0.25	105,287.67	105,292.67
0101	Landowner's Recovery Fund		0.25	5,044.10	5,044.10
0102	SID Fund		0.25	775,590.21	775,590.21
0200	Checking Operations Fund		0.23	1,001.30	1,001.30
0409	3 Month Jumbo Term Share	5/6/2023	0.45	907,041.09	1,007,041.09
	Total Shares			1,793,964.37	1,893,969.37

Thank you for the opportunity to present this update. Please let me know if further information is required.

**MEMORANDUM**

Date: April 7, 2023

To: John Burch, Guam Ancestral Lands Commission Exec. Director

From: Melanie Mendiola – CEO/ Administrator, Diego Mendiola - RPD Manager,
Tony Arriola – Program Coordinator

Subject: GEDA Monthly Progress Report

Håfa Adai! The following is a progress report on GEDA's efforts to manage Land Bank Trust properties as required by Section 1(i) of the MOU between GEDA and GALC Land Bank Trust:

➤ **Wettengel Junction: Northern Market, LLC (NM)**

Monthly Rent	Outstanding Balance
\$ 27,854.51	\$ 1,549,940.69

- Total Deferred, Undeferred and Interest due as of 10/31/2022 = \$1,466,377.16.
- Last payment received on 2/8/2023.
- GALC Board Commission is currently reviewing NM proposal.
- Account Summary (attached)

➤ **Apra Harbor Parcel No. 1 (Commissary Junction): Kwik Space**

Monthly Rent	Outstanding Balance
\$ 3,989.13	\$ 4,223.79

- Last payment received on 03/15/2023.
- Account Summary (attached)

➤ **Apra Harbor Reservation F-12: Matson**

Monthly Rent	Outstanding Balance
\$ 27,733.00	\$ 27,733.00

- Last payment received on 03/31/2023.
- Account Summary (attached)



➤ **Lot Apra Harbor Reservation F-12-R2: Trans Steel**

Monthly Rent	Outstanding Balance
\$ 500.00	\$ 9,300.00

- Last payment received on 03/23/2023 in the amount of \$600.00.
- Account Summary (attached)

➤ **Tanguisson Cable Landing Station, Dededo (Lot 10192): AT&T**

Monthly Rent	Outstanding Balance
\$ 22,939.42	\$ 0

- Last payment received on 04/04/2023.
- Account Summary (attached)

➤ **Lot Apra Harbor Reservation F-12 Polaris Point: Smithbridge Guam**

Monthly Rent	Outstanding Balance
\$ 8,800.00	\$ 0

- Last payment received on 4/04/2023.
- Account Summary (attached)

➤ **Lot 10155-1: Farmers' Cooperative Association of Guam (FCAG)**

Annual Rent	Outstanding Balance
CY 2021	\$ 2,009.30

- Pending CY2022 Financial Statements to determine annual payment due for May 2023.
- 1st Installment Payment of \$401.86 paid on 4/5/2023.

TIYAN PROPERTIES

➤ **Guam Environmental Protection Agency (GEPA)**

Monthly Rent	Outstanding Balance
\$ 8,000.00	\$ 256,000.00

- Last payment received on 3/16/2023 in the amount of \$8,000.00.
- Connie, ASO stated that they will be remitting more payments as funds become available.
- Account Summary (attached)

➤ **DPHSS (WIC)**

Monthly Rent	Outstanding Balance
\$ 8,400.00	\$ 29,099.35

- Lump sum payment of \$42,000 remitted on 3/03/2023.
- GALC and GEDA received renewed Letter of Intent to Extend MOU via email on 3/20/2023.
- Account Summary (attached)

OTHER ITEMS

➤ F-12 Polaris Mitigation Plan

- Update status on Mitigation plan from Guam Environmental Protection Agency (GEPA). Chie, GEPA rep. stated that they are pending USEPA decision on Mitigation plan through their Brownfields Grant Program.

Should you have any questions, please contact us at 671-647-4332. *Si Yu'os Ma'ase'* for your continued support in generating revenues for the beneficiaries of the Trust.

Sensesamente,

MELANIE MENDIOLA
CEO/ Administrator



Guam Economic Development Authority
GALC Leases Account Ledger
Balance as of 4/6/2023

Kwikspace (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance		\$ 234.66				\$ 234.66
23022	October 2022 Lease	10/1/2022	\$ 3,989.13	\$ (3,989.13)	GD-5093	11/15/2022	\$ -
23056	November 2022 Lease	11/1/2022	\$ 3,989.13	\$ (3,989.13)	GF-9888	11/14/2022	\$ -
23095	December 2022 Lease	12/1/2022	\$ 3,989.13	\$ (3,989.13)	GF-9916	12/12/2022	\$ -
23130	January 2023 Lease	1/1/2023	\$ 3,989.13	\$ (3,989.13)	GF-9948	1/19/2023	\$ -
23164	February 2023 Lease	2/1/2023	\$ 3,989.13	\$ (3,989.13)	GF-9977	2/13/2023	\$ -
23202	March 2023 Lease	3/1/2023	\$ 3,989.13	\$ (3,989.13)	GF-10011	3/15/2023	\$ -
23233	April 2023 Lease	4/1/2023	\$ 3,989.13				\$ 3,989.13
TOTAL			\$ 28,158.57	\$ (23,934.78)			\$ 4,223.79

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
47519	11/17/2022	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
47578	1/23/2023	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
47578	1/23/2023	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
47605	2/9/2023	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
47640	3/7/2023	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
47675	4/3/2023	\$ 3,418.68	\$ 570.45	\$ 3,989.13	\$ -
		\$ 20,512.08	\$ 3,422.70	\$ 23,934.78	\$ -

GEPA (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance		\$ 208,000.00				\$ 208,000.00
23023	October 2022 Lease	10/1/2022	\$ 8,000.00				\$ 8,000.00
23057	November 2022 Lease	11/1/2022	\$ 8,000.00				\$ 8,000.00
23096	December 2022 Lease	12/1/2022	\$ 8,000.00				\$ 8,000.00
23131	January 2023 Lease	1/1/2023	\$ 8,000.00				\$ 8,000.00
23165	February 2023 Lease	2/1/2023	\$ 8,000.00				\$ 8,000.00
23203	March 2023 Lease	3/1/2023	\$ 8,000.00				\$ 8,000.00
	Payment on past due balance			\$ (8,000.00)	BOGGU03162023	3/16/2023	\$ (8,000.00)
23234	April 2023 Lease	4/1/2023	\$ 8,000.00				\$ 8,000.00
TOTAL			\$ 264,000.00	\$ (8,000.00)			\$ 256,000.00

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
47673	4/3/2023	\$ 6,856.00	\$ 1,144.00	\$ 8,000.00	\$ -
				\$ -	\$ -
		\$ 6,856.00	\$ 1,144.00	\$ 8,000.00	\$ -

Matson (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance						\$ -
23025	October 2022 Lease	10/1/2022	\$ 27,733.00	\$ (27,733.00)	GF-09857	11/15/2022	\$ -
23059	November 2022 Lease	11/1/2022	\$ 27,733.00	\$ (27,733.00)	GF-9904	11/28/2022	\$ -
23098	December 2022 Lease	12/1/2022	\$ 27,733.00	\$ (27,733.00)	GF-9938	1/3/2023	\$ -
23133	January 2023 Lease	1/1/2023	\$ 27,733.00	\$ (27,733.00)	GF-9973	2/8/2023	\$ -
23167	February 2023 Lease	2/1/2023	\$ 27,733.00	\$ (27,733.00)	GF-9995	2/28/2023	\$ -
23205	March 2023 Lease	3/1/2023	\$ 27,733.00	\$ (27,733.00)	GF-10027	3/31/2023	\$ -
23236	April 2023 Lease	4/1/2023	\$ 27,733.00				\$ 27,733.00
TOTAL			\$ 194,131.00	\$ (166,398.00)			\$ 27,733.00

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
47515	11/17/2022	\$ 23,767.18	\$ 3,965.82	\$ 27,733.00	\$ -
47580	1/23/2023	\$ 23,767.18	\$ 3,965.82	\$ 27,733.00	\$ -
47580	1/23/2023	\$ 23,767.18	\$ 3,965.82	\$ 27,733.00	\$ -
47639	3/7/2023	\$ 23,767.18	\$ 3,965.82	\$ 27,733.00	\$ -
47674	4/3/2023	\$ 23,767.18	\$ 3,965.82	\$ 27,733.00	\$ -
					\$ (27,733.00)
					\$ -
		\$ 118,835.90	\$ 19,829.10	\$ 138,665.00	\$ (27,733.00)

Matson (Participation Rent)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Matson Navigation - Participation			\$ (234.00)	GF-9868	10/17/2022	
	Matson Navigation - Participation			\$ (78.00)	GF-9923	12/16/2022	
TOTAL			\$ -	\$ (312.00)			\$ -

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
47515	11/17/2022	\$ 200.54	\$ 33.46	\$ 234.00	\$ -
47580	1/23/2023	\$ 66.85	\$ 11.15	\$ 78.00	\$ -
		\$ 267.39	\$ 44.61	\$ 312.00	\$ -

Northern Market (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance		\$ 1,426,436.19				\$ 1,426,436.19
23026	October 2022 Lease (Deferred)	10/1/2022	\$ 27,854.51				\$ 27,854.51
23069	NM Interest on Deferred Rent (OCT2017-OCT2022)	10/31/2022	\$ 12,086.46				\$ 12,086.46
23060	November 2022 Lease	11/1/2022	\$ 27,854.51	(27,854.51)	GF-9924	12/19/2022	\$ -
23099	December 2022 Lease	12/1/2022	\$ 27,854.51	(27,854.51)	GF-9941	1/5/2023	\$ -
23134	January 2023 Lease	1/1/2023	\$ 27,854.51	(27,854.51)	GF-9972	2/8/2023	\$ -
23168	February 2023 Lease	2/1/2023	\$ 27,854.51				\$ 27,854.51
23206	March 2023 Lease	3/1/2023	\$ 27,854.51				\$ 27,854.51
23237	April 2023 Lease	4/1/2023	\$ 27,854.51				\$ 27,854.51
TOTAL			\$ 1,633,504.22	\$ (83,563.53)			\$ 1,549,940.69

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
47581	1/23/2023	\$ 23,871.32	\$ 3,983.19	\$ 27,854.51	\$ -
47581	1/23/2023	\$ 23,871.32	\$ 3,983.19	\$ 27,854.51	\$ -
47638	3/7/2023	\$ 23,871.32	\$ 3,983.19	\$ 27,854.51	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ 71,613.95	\$ 11,949.58	\$ 83,563.53	\$ -

AT&T (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance						-
23027	October 2022 Lease	10/1/2022	22,939.42	(22,939.42)	BOGGU10042022	10/4/2022	-
23061	November 2022 Lease	11/1/2022	22,939.42	(22,939.42)	BOGGU11042022	11/4/2022	-
23100	December 2022 Lease	12/1/2022	22,939.42	(22,939.42)	BOGGU12062022	12/6/2022	-
23135	January 2023 Lease	1/1/2023	22,939.42	(22,939.42)	BOGGU01032023	1/3/2023	-
23169	February 2023 Lease	2/1/2023	22,939.42	(22,939.42)	BOGGU02032023	2/3/2023	-
23207	March 2023 Lease	3/1/2023	22,939.42	(22,939.42)	BOGGU03032023	3/3/2023	-
23238	April 2023 Lease	4/1/2023	22,939.42	(22,939.42)	BOGGU04042023	4/4/2023	-
TOTAL			\$ 160,575.94	\$ (160,575.94)			\$ -

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
47518	11/17/2022	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
47518	11/17/2022	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
47576	1/23/2023	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
47576	1/23/2023	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
47603	2/9/2023	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
47670	4/3/2023	\$ 19,659.08	\$ 3,280.34	\$ 22,939.42	\$ -
					\$ (22,939.42)
		\$ 117,954.48	\$ 19,682.04	\$ 137,636.52	\$ (22,939.42)

Trans Steel (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance		9,400.00				9,400.00
23028	October 2022 Lease	10/1/2022	500.00				500.00
	Lease Payment			(600.00)	GF-9851	10/3/2022	(600.00)
	Lease Payment			(600.00)	GF-9877	10/31/2022	(600.00)
23062	November 2022 Lease	11/1/2022	500.00				500.00
	Lease Payment			(600.00)	GF-9903	11/22/2022	(600.00)
23101	December 2022 Lease	12/1/2022	500.00				500.00
	Lease Payment			(600.00)	GF-9935	12/28/2022	(600.00)
23136	January 2023 Lease	1/1/2023	500.00				500.00
	Lease Payment	1/30/2023		(600.00)	GF-9964	1/30/2023	(600.00)
23170	February 2023 Lease	2/1/2023	500.00				500.00
23208	March 2023 Lease	3/1/2023	500.00				500.00
	Lease Payment			(600.00)	GF-10023	3/23/2023	(600.00)
23239	April 2023 Lease	4/1/2023	500.00				500.00
TOTAL			\$ 12,900.00	\$ (3,600.00)			\$ 9,300.00

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
				\$ -	\$ -
				\$ -	\$ -
47467	10/7/2022	\$ 514.20	\$ 85.80	\$ 600.00	\$ -
47520	11/17/2022	\$ 514.20	\$ 85.80	\$ 600.00	\$ -
				\$ -	\$ -
47579	11/22/2022	\$ 514.20	\$ 85.80	\$ 600.00	\$ -
				\$ -	\$ -
47579	12/28/2022	\$ 514.20	\$ 85.80	\$ 600.00	\$ -
				\$ -	\$ -
47635	3/7/2023	\$ 514.20	\$ 85.80	\$ 600.00	\$ -
				\$ -	\$ -
				\$ -	\$ (600.00)
				\$ -	\$ -
		\$ 2,571.00	\$ 429.00	\$ 3,000.00	\$ (600.00)

DPHSS-WIC (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance		37,499.35				37,499.35
23024	October 2022 Lease	10/1/2022	8,400.00				8,400.00
23058	November 2022 Lease	11/1/2022	8,400.00				8,400.00
	Payment on past due balance			(8,400.00)	BOGGU11172022	11/17/2022	(8,400.00)
23097	December 2022 Lease	12/1/2022	8,400.00				8,400.00
	Payment on past due balance			(16,800.00)	BOGGU12162022	12/16/2022	(16,800.00)
23132	January 2023 Lease	1/1/2023	8,400.00				8,400.00
23166	February 2023 Lease	2/1/2023	8,400.00				8,400.00
23204	March 2023 Lease	3/1/2023	8,400.00				8,400.00
	Payment on past due balance			(42,000.00)	BOGGU03032023	3/3/2023	(42,000.00)
23235	April 2023 Lease	4/1/2023	8,400.00				8,400.00
TOTAL			\$ 96,299.35	\$ (67,200.00)			\$ 29,099.35

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
47577	1/23/2023	\$ 7,198.80	\$ 1,201.20	\$ 8,400.00	\$ -
				\$ -	\$ -
47577	1/23/2023	\$ 14,397.60	\$ 2,402.40	\$ 16,800.00	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
47671	4/3/2023	\$ 35,994.00	\$ 6,006.00	\$ 42,000.00	\$ -
				\$ -	\$ -
		\$ 57,590.40	\$ 9,609.60	\$ 67,200.00	\$ -

Smithbridge Guam (Monthly Lease)

Invoice Number	Description	Invoice Date	Invoice Amount	Amount Paid	Receipt Number	Receipt Date	Balance Due
	Beginning Balance						-
23029	October 2022 Lease	10/1/2022	8,800.00	(8,800.00)	GF-9859	10/10/2022	-
23063	November 2022 Lease	11/1/2022	8,800.00	(8,800.00)	GF-9882	11/7/2022	-
23102	December 2022 Lease	12/1/2022	8,800.00	(8,800.00)	GF-9925	12/19/2022	-
23137	January 2023 Lease	1/1/2023	8,800.00	(8,800.00)	GF-9971	2/8/2023	-
23171	February 2023 Lease	2/1/2023	8,800.00	(8,800.00)	GF-9974	2/10/2023	-
23209	March 2023 Lease	3/1/2023	8,800.00	(8,800.00)	BOGGU03032023	3/3/2023	-
23240	April 2023 Lease	4/1/2023	8,800.00	(8,800.00)	BOGGU04042023	4/4/2023	-
TOTAL			\$ 61,600.00	\$ (61,600.00)			\$ -

Check #	Check Date	Remitted amount	GEDA's Fee	Total Amount Received	Remaining Amount Due
47517	11/17/2022	7,541.60	1,258.40	\$ 8,800.00	\$ -
47517	11/17/2022	7,541.60	1,258.40	\$ 8,800.00	\$ -
47582	1/23/2023	7,541.60	1,258.40	\$ 8,800.00	\$ -
47637	3/7/2023	7,541.60	1,258.40	\$ 8,800.00	\$ -
47637	3/7/2023	7,541.60	1,258.40	\$ 8,800.00	\$ -
47672	4/3/2023	7,541.60	1,258.40	\$ 8,800.00	\$ -
				\$ -	\$ (8,800.00)
		\$ 45,249.60	\$ 7,550.40	\$ 52,800.00	\$ (8,800.00)



March 7, 2023

VIA HAND DELIVERY

Ms. Melanie Mendiola
Chief Executive Officer/Administrator
GUAM ECONOMIC DEVELOPMENT AUTHORITY
590 South Marine Corps Drive
Tamuning, Guam 96913

**RE: WETTENGEL JUNCTION ; PROPOSAL FOR ARREARS REPAYMENT
AND RENT MODIFICATION**

Dear Ms. Mendiola,

This letter sets forth an update from Northern Market, LLC ("Northern Market") regarding its progress of the North Gate Marketplace (the "Marketplace") development at Wettengel Junction that it leases from the Guam Ancestral Lands Commission. Northern Market also proposes an arrears repayment and rent modification plan as explained more fully below, which will assist with the commencement of the infrastructure for the Marketplace and the construction of its first retail establishment.

PHASE I

Northern Market has leasing commitments with the three major tenants for Phase I of the Marketplace.

Community First Guam Federal Credit Union

Community First will lease a pad consisting of approximately 4,400 square meters in a prime corner location of the development on which it will build its landmark northern branch. Community First will cover the cost of preparing its pad. Rental payments will commence the earlier of: (a) six months after Northern Market commences the pad infrastructure work; or (b) the month following Community First's construction of its building and improvements on the property (which may be done simultaneously with Northern Market's pad work).

Daiso

Daiso is a popular Japanese variety retailer with an international presence and mass appeal because of its offering of affordable household items, party supplies, stationery, snacks, gifts, toys, gardening tools, etc. Daiso's local franchisee will open one its first Guam locations in the Marketplace – occupying 10,000 square feet for a retail space and a distribution center. Rental payments will commence on the date of beneficial occupancy, i.e. when the building is capable of occupancy the tenant.

King's

This well-established local eatery will lease a 6,500 square foot pad to construct its newest restaurant to serve the residents, employees and visitors in the northern part of Guam. Rental payments will commence upon delivery of the pad to King's for the construction of its building.

PHASE 2

Phase 2 will involve the construction of one multi-tenant building (20,000 square feet) and two single-tenant pads. Applying a construction cost of \$175 per square foot, Northern Market estimates a construction cost of about \$5,000,000 to complete this phase. Phase 2 tenants for the multi-tenant segment include:

Pieology

Pieology will lease 2,000 square feet of space.

Ajisen

Ajisen will lease 2,500 square feet of space adjacent to Pieology.

Curry House Coco Ichibanya

This new restaurant to Guam will rent a 2,000 square foot space as well.

Tokyo Mart

S.P.E. (Guam), Inc. dba Tokyo Mart will lease 2,500 square feet of space.

Benii

NSK, Inc. dba Benii is a Japanese restaurant will lease 3,500 square feet.

Gourmet Guam

This popular local bakery will lease 2,500 square feet.

PHASE 3

Phase 3 will involve the development of more than the remaining half of the property after Phases 1 and 2, including infrastructure, are complete. Thus, Phase 3 construction should be more efficient to develop from a cost and construction perspective. Further, the spaces available for Lease in Phase 3 will be in demand at higher rental rates because of the value created by Phases 1 and 2. Northern Market has yet to decide the desired tenant mix for Phase 3 but it is preliminarily considering uses that complement the businesses within the Marketplace.

ECONOMIC GROWTH THROUGH DEVELOPMENT

Upon completion, Phase 1 and Phase 2 of the Marketplace allow the opening of multiple, varied businesses to serve the island on this prime commercial property located at the newly constructed intersection that specifically serves the Guam Regional Medical Center hospital, adjacent medical offices, Camp Blaz, the new U.S. Marine Corps base, Okkodo High School and all the recent developments on and along Route 3. Northern Market has developed a site plan for its strategically located project optimize the leasable spaces for a variety of select tenants to meet the demands and needs of residents and visitors alike. This new commercial center will provide employment opportunities to hundreds of local residents from restaurants to retail.

PHASE 1 CONSTRUCTION BUDGET AND LOAN

The project costs for Phase 1 are itemized below:

	COST
Land costs (escrow fees, recording fees, title policy, etc.)	\$25,000
Loan fees / interest reserve	\$245,032
Indirects	\$50,000
Site Improvements	\$1,900,000
Direct Construction	\$1,800,000
Tenant Improvements	\$129,968
TOTAL	\$4,150,000

As of the date hereof, Northern Market has received a financing commitment from Community First as follows, which Northern Market intends to use as follows:

Construction Costs for Phase I	\$4,150,000
Arrears under Ground Lease with GALC	\$150,000
TOTAL LOAN AMOUNT	\$4,300,000

As the loan closing will require standard obligations such as an appraisal of the property and the preparation and execution of loan documents, Northern Market expects to close the loan within 90 days hereof and make the partial arrears payment to GALC immediately thereafter.

PROPOSAL FOR ARREARS PAYMENT AND RENT MODIFICATION

The Marketplace is a substantial development with the sizeable construction costs that Northern Market intends to manage with the phasing of the development and construction costs as set forth herein. As it prepares to mobilize and break ground on what promises to be a mutually beneficial and profitable commercial center for Northern Market and GALC, Northern Market seeks the support of GEDA and GALC regarding its lease obligations. In light of the foregoing, Northern Market proposes and requests GALC's approval of the following:

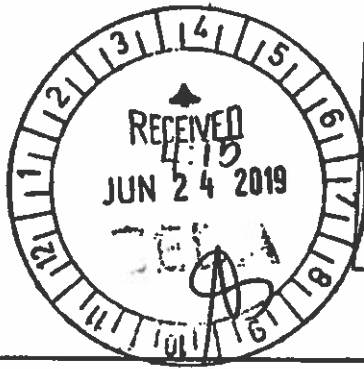
- a. Partial arrears payment by Northern Market to GALC in the amount of \$150,000 on or before June 30, 2023;
- b. Deferment of Northern Market's monthly rent during the construction period (estimated to be 18 months);
- c. Amortization of current arrears and deferred 18 months over the duration of the initial lease term (expiring December 1, 2063);
- d. Upon expiration of the rent deferment, modification of the rent to reflect the portion of the property used in Phase 1, which shall be adjusted upon the completion of Phase 2 to include the additional improved portion; and
- e. Second partial arrears payment by Northern Market to GALC upon securing financing for Phase 2.

Thank you for your continuing support of this project and consideration of this request. Please do not hesitate to contact me if you have any questions or if you need any additional information.

SINCERELY,



JENNIFER A. CALVO
Its Duly Authorized Representative



GOVERNMENT OF GUAM - Department of Land Management Office of the Recorder	
File for Record is Instrument Number	936789
On the Year 20 <u>19</u> Month <u>6</u> Day <u>24</u> Time <u>4:17</u>	
Recording Fee <u>DE-OFFICE</u>	Receipt No. _____
Deputy Recorder <u>Joel Antenor Cruz</u>	
JOEL ANTENOR CRUZ	

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is entered to on this 24th day of June, 2019 by the **GUAM ANCESTRAL LAND COMMISSION**, Trustee for the GALC Land Bank Trust whose address is Post Office Box 2950, Hagatna, Guam 96932 ("Landlord") and the **NORTHERN MARKET, LLC**, a Guam limited liability company whose mailing address is 135 Chalan Santo Papa, Janet Commercial Building, Hagatna, Guam 96910 ("Tenant") and concerns that certain Lease Agreement entered into by the parties on December 20, 2013, for a portion of Lot Andersen Family Housing Annex No. 1 (Camp Edusa), (AJKL), also referred to as Wettengel Junction, in the Municipality of Dededo, Guam and recorded with the Department of Land Management on December 20, 2013 as instrument number 859723.

The parties desire to modify and amend the Lease Agreement and therefore agree as follows:

1. **ARTICLE 2. LEASE PREMISES:** Property description be changed to correct the property size:

Portion of Lot Andersen Family Housing Annex No. 1 (Camp Edusa), (AJKL) also referred to as Wettengel Junction, that certain real property situated in the Municipality of Dededo, consisting of an area 51,850 square meters as indicated on Exhibit "A" to this Lease.

2. **EXHIBIT A – FULL DESCRIPTION OF PREMISES:** Description to be changed to correct property size and lot number:

Portion of Lot Andersen Family Housing Annex No. 1 (Camp Edusa), (AJKL) also referred to as Wettengel Junction, that certain real property consisting of 51,850 square

meters, situated in the Municipality of Dededo, including Lot 10155-3 (1,687 square meters, northern portion only) and Lot 10155-R7 (53,214 square meters, less that certain 3,051 square meters, identified as "license area" and excluded from the basic lot per Special Note "A" (2) resulting in a net are of 50,163 square meters) all as described by RLS Services, LLC in RETRACTMENT SURVEY MAP of Lot 10155-3 and Lot 10155-R7, L.M. Check No. 158FY2013, recorded with the Department of Land Management as instrument No. 858965 on December 2, 2013, which is incorporated by reference.

3. All other provisions of the Lease Agreement, including the monthly rent to be paid by Tenant, continue in full force and effect and are not modified or amended by this First Amendment.

GUAM ANCESTRAL LANDS COMMISSION, as

Trustee for the GALC Land Bank Trust

By: Anthony J.P. Ada ^{05 JUN 2019} By: Maria G. Cruz
Anthony J.P. Ada Maria G. Cruz
Chairman Secretary/Treasurer

Date: 05 JUN 2019 Date: JUNE 5, 2019

NORTHERN MARKET, LLC.

By: Carlos Camacho
Carlos Camacho
Duly Authorized Representative

Date: 6-24-19

ACKNOWLEDGEMENT

GUAM, U.S.A. }

CITY OF TAMUNING }

SS:

ON THIS 5th day of June, 2019, before me, a Notary Public in and for Guam, U.S.A., personally appeared ANTHONY J.P ADA, Chairman of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person who executed the forgoing FIRST AMMENDMENT TO LEASE AGREEMENT, and acknowledged to me that she/he executed the same on behalf of the GUAM ANCESTRAL LANDS COMMISSION.

IN WITNESS WHEREOF, I have hereunto set my hands and affixed my official seal the day and year first above written.


NOTARY PUBLIC

ACKNOWLEDGEMENT

JOHN J. GUMATAOTAO
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: JULY 11, 2021
P.O. Box 2950 Hagatna, Guam 96932

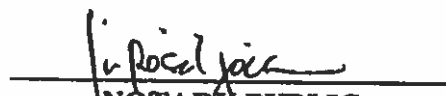
GUAM, U.S.A. }

CITY OF TAMUNING }

SS:

ON THIS 5th day of June, 2019, before me, a Notary Public in and for Guam, U.S.A., personally appeared MARIA G. CRUZ, Secretary/Treasurer of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person who executed the forgoing FIRST AMMENDMENT TO LEASE AGREEMENT, and acknowledged to me that she/he executed the same on behalf of the GUAM ANCESTRAL LANDS COMMISSION.

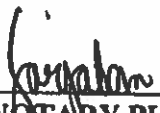
IN WITNESS WHEREOF, I have hereunto set my hands and affixed my official seal the day and year first above written.


NOTARY PUBLIC
TINAROSE T. JOCSO
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: SEPT. 12, 2021
P.O. Box 2950 Hagatna, Guam 96932

GUAM, U.S.A. }
 }
CITY OF TAMUNING } SS:

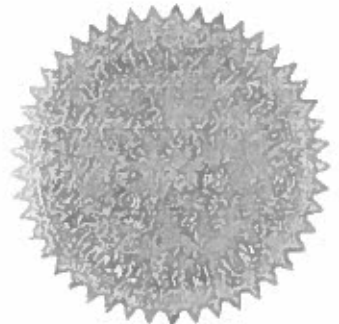
ON THIS 24th day of JUNE, 2019, before me, a Notary Public in and for Guam, U.S.A., personally appeared **CARLOS CAMACHO**, the Duly Authorized Representative of **NORTHERN MARKET, LLC**, A Guam Limited Liability Company, known to me to be the person who executed the forgoing **FIRST AMMENDMENT TO LEASE AGREEMENT**, and acknowledged to me that she/he executed the same on behalf of the **NORTHERN MARKET, LLC**.

IN WITNESS WHEREOF, I have hereunto set my hands and affixed my official seal the day and year first above written.



NOTARY PUBLIC

JONALYN ASHLEY E. UGABAN
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: **JUNE 13, 2020**
155 E.T. Calvo Memorial Pkwy Ste 100 Tamuning, GU 96913



Island of Guam, Government of Guam
Department of Land Management Officer of the Recorder

File for Record's Instrument No.

859723

On the 13th Month of December 2013 Time 3:18

DE-OFFICIO

Recorder's Receipt No.

Deputy Recorder's Signature

LEASE AGREEMENT

ARTICLE 1. PARTIES.

Section 1.01. **THIS LEASE AGREEMENT** (the "Lease") is entered into this 20th day of DECEMBER, 2013, by and between the **GUAM ANCESTRAL LANDS COMMISSION**, whose address is Post Office Box 2950, Hagatna, Guam 96932 ("Landlord"), and **NORTHERN MARKET, LLC**, a Guam limited liability company whose mailing address is 135 Chalan Santo Papa, Janet Commercial Building, Hagatna, Guam 96910 ("Tenant").

Section 1.02. **Property Manager.** Landlord has entered into a Memorandum of Understanding with the Guam Economic Development Authority ("GEDA") for the management of the Premises. Landlord represents and warrants and Tenant understands that GEDA is the authorized agent of Landlord with respect to this Lease and the Premises.

ARTICLE 2. LEASED PREMISES.

Section 2.01. **Premises.** Landlord leases to Tenant and Tenant hires from Landlord for the term, at the rental, and upon the conditions in this Lease that certain real property described as:

Portion of Lot Andersen Family Housing Annex No. 1 (Camp Edusa), (AJKL), also referred to as Wettengel Junction, that certain real property situated in the Municipality of Dededo, consisting of an area of 53,876 square meters as indicated on Exhibit "A" to this Lease.

Landlord agrees that if Tenant shall perform its agreements herein, Tenant shall at all times during the lease term have the peaceable and quiet enjoyment and possession of the Premises without hindrance by Landlord or anyone claiming by, through or under Landlord.

Section 2.02. **Survey of Premises.** Tenant has hired a registered land surveyor to conduct a survey of the Premises, to include the installation of survey boundary markers on the Premises. The survey was completed at Tenant's sole cost and expense and a copy of the final survey has been provided to Landlord. During the entire term of the Lease period, Tenant shall maintain in good condition and provide full access to all survey boundary markers on the Premises at Tenant's sole cost and expense.

ARTICLE 3. LEASE TERM.

Section 3.01. **Term.** The initial term of this Lease shall be for a period of fifty (50) years commencing on January 1, 2014, and expiring, unless sooner terminated, at midnight on December 31, 2063. Tenant shall have one (1) successive option to extend the term of the Lease for forty nine (49) years, commencing from the expiration date of the then-existing term. Tenant may exercise the foregoing option by written notice given to Landlord at least sixty (60) days prior to the expiration of the then-existing term. Tenant's failure to provide Landlord with said sixty (60) day notice shall result in the Lease terminating upon the expiration of the then-existing term. Tenant's tenancy during any option period shall be upon the same terms, covenants and conditions as provided in this Lease for the initial term, except for rent, which shall be adjusted in accordance with Section 4.01 herein.

Section 3.02. **Holding Over.** If Tenant shall remain in possession of the Premises after the expiration or termination of this Lease, such possession shall be on a month-to-month

tenancy upon the same terms and conditions of this Lease as existed immediately prior to the expiration or termination of the term, except, however, the duration of this Lease shall be on a month-to-month basis.

ARTICLE 4. RENT; DEPOSIT.

Section 4.01. **Rent Commencement and Lease-Up.** Payment of rent will commence twelve (12) months from the commencement date specified in Section 3.01 above to allow Tenant to design and construct the development. This twelve (12) month period may be extended to a maximum of six (6) additional months if Tenant submits reasonable and/or justifiable need. However, if at any time prior to the end of this twelve (12) months or during any extensions thereof Tenant begins generating any revenue through use of the Premises, appropriate rents defined in Article 10 below, will be paid to GEDA during any extension period beyond this initial twelve (12) month period on a prorated basis. Additionally, Tenant shall receive a lease-up discount of fifty percent (50%) of the base rent established in Section 4.02, below, during the second year of this lease.

Section 4.02. **Base Rent.** Subject to the limitations specified in Section 4.01 above, beginning on the first day of this Lease, Tenant agrees to pay to Landlord as rental for the Premises, payable monthly in advance on the first calendar day of each calendar month, without offset or deduction, the sum total of Fifty and Forty-Eight One Hundredth Cents (\$.5048) per square meter leased (as defined in Section 2.01) per month as base rent. Unless otherwise instructed by Landlord, payment of all rents shall be made directly to and in the name of GEDA. In the event of commencement or termination of this Lease at a time other than the beginning or end of a calendar month, the rent shall be prorated on a daily basis as of the date of

commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Tenant or paid on its account.

Section 4.03. **Rent Escalation**. Beginning on the first day of the sixth year after the start of payments of Base Rent as established above, and every **fifth (5th)** year subsequently, the Base Rent shall be adjusted and increased at an amount equal to ten percent (10%) over the previous five (5) year period.

Section 4.04. **Participation Rent**. Participation Rent is defined as a pre-defined percentage of the actual income from the business operations of Tenant made in, from, or through the Premises. The parties agree that such actual income shall include only income made in, from, or through the Premises defined as base rent paid to Tenant from Rentals, as defined in Section 10.01a, on or through the Premises.

Tenant shall pay to Landlord Participation Rent in the amount of two and one-half percent (2.5%) of the actual income made in, from, or through the Premises during each quarterly Participation Rent Period (defined below).

(a) **Accounting and Payment of Participation Rent**. Participation Rent shall be paid and accounted for in the following manner:

(1) **Quarterly Statement; Quarterly Payment**. Within thirty (30) days after each calendar quarter, Tenant shall furnish to Landlord a quarterly statement of actual income duly certified as true and correct by an executive officer of Tenant setting forth Tenant's actual income made in, from and through the Premises during the preceding Quarterly **Participation** Rent Period. Contemporaneous with the rendition of such quarterly statement, Tenant covenants to pay Landlord the **Participation** Rent covered by such quarterly statement.

(2) Annual Statement; Annual Adjustment. Within thirty (30) days after the expiration of each Lease Year, Tenant shall furnish to Landlord an annual statement of quarterly actual rent income duly certified as true and correct by an executive officer of Tenant setting forth Tenant's actual income made in, from and through the Premises during the entire preceding Lease Year. Contemporaneous with the rendition of such annual statement, Tenant covenants to pay Landlord a sum equivalent to the amount by which the aggregate quarterly Participation Rent due for each quarterly period taken exceeds the aggregate quarterly Participation Rent payments made by Tenant in the Lease Year. If, however, the aggregate amount of the quarterly Participation Rent made by Tenant during the Lease Year is greater than the aggregate quarterly Participation Rent due for such entire Lease Year and provided that Tenant is not otherwise in default hereunder, Landlord shall apply such excess to the next succeeding installments of quarterly rent due hereunder. If there be any such excess for the last Lease Year of the term of this Lease, the amount thereof will be refunded by Landlord to Tenant within one hundred twenty (120) days from the expiration of the term of this Lease provided that Tenant is not in default hereunder.

(3) Supporting Documents. Tenant shall also furnish to Landlord, throughout the term of this Lease, any documents reasonably requested by Landlord to support the quarterly and annual statements, including without limitation, true and correct copies of Tenant's monthly Guam Business Privilege Tax returns and Sublease Agreements.

(4) Landlord not Bound. The receipt by Landlord of any quarterly or annual statement of actual income for any Quarterly Participation Rent Period or Lease Year shall not bind Landlord as to the correctness of any such statement or payment unless supported

by a copy of Tenant's Guam Business Privilege Tax return or other tax return or an audited financial statement covering such Quarterly Participation Rent Period or Lease Year.

(b) "Lease Year" and "Quarterly Participation Rent Periods" defined.

(1) A Lease Year is a twelve month period commencing on the date the term of this Lease commences, and every twelve month period thereafter.

(2) Quarterly Participation Rent Periods are calendar quarters.

(c) Accounting by Tenant.

(1) Maintenance of Books and Records. Tenant shall at all times keep and maintain full and accurate books of accounts, cash receipts, records, and other pertinent data showing all of its actual income made in, through and from the Premises. Such books of accounts, cash receipts, records and other pertinent data shall be kept by Tenant for a period of at least two (2) years after the end of each Lease Year.

(2) Landlord's Right to Audit and Inspect Books and Records.

Landlord shall have the right at all reasonable times during business hours, through Landlord's duly authorized agent, attorney, or accountant, to inspect and make copies of Tenant's records, accounts, and books bearing on its actual income made in, through, and from the Premises (including, without limitation, copies of Guam Business Privilege Tax or use and excise tax returns furnished to any governmental authority), both at the Premises and at Tenant's central offices, or at any other office of Tenant at which such books, records, and accounts may be kept. In the event Tenant rents, subleases or sublicenses to any third party any warehouse, building, yard area, space or other improvement upon or within the Premises then the Tenant shall make part of any rental agreement, sublease or sublicense Landlord's right to audit and inspect subtenant's or sublicensee's books and records such that rights and obligations of this section

flow down to the renter, subtenant or sublicensee. All such information shall be held by Landlord, its agents, attorneys, and accountants in strictest confidence to the extent permitted by Guam law. Landlord shall pay all costs, fees and expenses associated with such audit and inspection; **provided, however**, that if Landlord, its agent, attorney or accountant determines an understatement of actual income for any Lease Year of ten percent (10%) or greater, and additional Participation Rent is due as a result thereof, then Tenant shall pay all reasonable costs, fees and expenses associated with such audit and inspection within twenty (20) days of written notification to Tenant. If, however, Tenant shall have understated its actual income by more than ten percent (10%) and such understatement is objectively proven to have been intended to defraud Landlord or, notwithstanding Tenant's intent, such understatement shall have occurred two (2) or more times during any twelve (12) month period, then Tenant shall be in default of this Lease, and Landlord shall have, in addition to all other available remedies, the right to immediately terminate this Lease for such default. If any audit shows that there is a deficiency in the payment of any Participation Rent, the deficiency shall be paid within twenty (20) days of written notification to Tenant with interest thereon at the rate of one percent (1.0%) per month shall be paid within seven (7) days of written notification to Tenant.

(3) Tenant's Failure To Maintain Auditable Books And Records. If Landlord, its agent, attorney or accountant determines in its reasonable opinion that Tenant's books and records are unauditable, then Tenant shall have the right to provide, at Tenant's cost, an audit performed by a third-party certified public accountant duly licensed by the Government of Guam. In the event that Tenant is unable to provide such audit then Landlord may, at its option, declare Tenant in default of this Lease.

Section 4.05. **Deposit.** Upon execution of this Lease, Tenant shall deposit with Landlord the sum one (1) month's rent as described in Section 4.01 as security for the faithful performance of all obligations of Tenant hereunder, including without limitation those relating to rent and repairs. This security deposit shall not constitute payment of the last month's rent hereunder. If, after two years from the execution of this lease, Tenant has constructed improvements on the leased property which exceed Ten Million Dollars in value, then the deposit shall be applied as paid rent. If Tenant has not constructed such improvements within the two year period then the deposit shall be earned and retained by Landlord as non-refundable.

ARTICLE 5. UTILITIES AND TAXES.

Section 5.01. **Utilities.** Tenant shall apply for under its name and pay for all water, gas, heat, light, power, sewer, telephone service, rubbish removal, and all other utility services of any kind and nature whatsoever, supplied to and used on the Premises.

Section 5.02. **Payment of Taxes by Tenant.** Provided that Landlord delivers adequate notice of any taxes payable, Tenant shall pay prior to delinquency all real property taxes levied or assessed upon the Premises during the term of the Lease. Tenant shall not be liable for the payment of pre-existing unpaid, delinquent, or escaped tax assessments for period prior to the start of the Lease term.

ARTICLE 6. USE AND OCCUPANCY.

Section 6.01. **Use.** Tenant shall use the Premises solely for the purposes of commercial development which may include, without limitation, restaurants, retail stores and outlets, offices, gas stations and shops and Tenant shall not use or permit the use of the Premises for any

other purpose without the prior written consent of Landlord, which consent shall be granted or denied in Landlord's reasonable discretion. The Premises shall be delivered to Tenant "AS IS". "WHERE IS," except as expressly set forth in this lease, it is understood and agreed that Landlord is not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Premises, including, but not limited to, any warranties or representations as to use, habitability, merchantability, or fitness for a particular purpose.

Section 6.02. **Compliance with Law**. Tenant covenants and agrees that during the term of this Lease, Tenant shall promptly comply with all present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal and local governments or any of their agencies, departments, bureaus, boards, commissions and officials thereof with respect to the Premises, the buildings and improvements that may be erected thereon, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against Landlord or Tenant or both, except that Tenant shall not be responsible for any violations of law existing prior to the commencement date of this Lease. This Lease is subject to all consents, approvals and permits required by law or governmental rule or regulation. It shall be Tenant's duty and responsibility to obtain any such required consents, approvals and permits.

Section 6.03. **Restrictions on Tenant's Use**. Tenant agrees, in using the Premises:

(a) Not to commit any waste or suffer any waste to be committed upon the Premises:

(b) Not to commit any public or private nuisance or any other act or thing which might or would disturb the quiet enjoyment of any occupant of nearby property;

(c) Not to burn refuse or other materials in or about the Premises, or permit any activity or activities that are reasonably expected to cause unreasonable annoyance to occupants of adjoining properties;

(d) Not to use or allow the use of the Premises or any portion thereof for the principal or primary purpose of generating, manufacturing, refining, producing or processing any hazardous wastes or hazardous substances (meaning such wastes or substances as would be deemed hazardous under any applicable Federal or Guam law or regulation).

(e) Except for contamination existing prior to the commencement date of this Lease or migrating on to the Premises from or through adjacent properties, not to permit or cause any condition to exist on the Premises that would constitute material contamination (meaning such contamination as would constitute a violation of Federal or Guam laws or regulations or pose a danger to public health which, were prosecution or a civil action instituted, would likely result in liability that would be material relative to the value of the Premises) or constitute a violation of any applicable environmental law, rule, regulation or order.

Section 6.04. **Hazardous Materials.** Except for contamination existing prior to the commencement date of this Lease or migrating on to the Premises from or through adjacent properties, Tenant shall not permit or cause any condition to exist on the Premises which would constitute material contamination (meaning such contamination as would constitute a violation of federal or Guam laws or regulations or pose a danger to public health which, were prosecution or a civil action instituted, would likely result in liability that would be material relative to the value of the Premises) or constitute a violation of any applicable law, rule, regulation or order.

(a) As used in this lease, the terms "hazardous material[s]" or "hazardous waste[s]" means any oil, flammable items, explosives, radioactive materials, hazardous or toxic

substances, material or waste or related materials including, without limitation, any substances that pose a hazard to the Premises or to persons on or about the Premises and any substances defined as or included in the definition of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "extremely hazardous waste," "restricted hazardous waste" or words of similar import, now or subsequently regulated under applicable federal or Guam laws or regulations ("Environmental Laws"), including without limitation, products and materials which are subsequently found to have adverse effects on the environment or the health and safety of persons.

(b) Tenant shall keep and maintain the Premises in compliance with, and shall not cause or permit the Premises to be in violation of any Environmental Laws. All Tenant's activities at the Premises shall be in accordance with all Environmental Laws. Additionally, Tenant shall obtain any and all necessary permits required as a result of Tenant's intended use of the Premises. Tenant's obligations and liabilities under this Section shall continue so long as Landlord bears any liability or responsibility under the Environmental Laws for any action that occurs on the Premises during the term of this Lease.

(c) Tenant shall immediately notify Landlord of, and upon Landlord's request shall provide Landlord with copies of, the following:

(1) Any correspondence, communication or notice, oral or written, to or from any governmental entity regarding the application of Environmental Laws to the Premises or Tenant's operations on the Premises including, without limitation, notices of violation, notices to comply and citations;

(2) Any reports filed pursuant to any Environmental Laws or self-reporting requirements;

(3) Any permits and permit applications; and

(4) Any change in Tenant's operations on the Premises that will change or has the potential to change Tenant's or Landlord's obligations or liabilities under Environmental Laws.

(d) Tenant shall protect, indemnify and hold harmless Landlord and its directors, officers, employees, and agents, successors and assigns for, from and against any and all losses, damages, claims, costs, expenses, penalties and liabilities of any kind (including, without limitation, the cost of any investigation, remediation and cleanup, and attorneys' fees) which are attributable to Tenant's violation of this Section. This indemnity shall survive the expiration or termination of this Lease. Landlord shall protect, indemnify and hold harmless Tenant and its directors, officers, employees, affiliates and agents, successors and assigns for, from and against any and all losses, damages, claims, costs, expenses, penalties and liabilities of any kind (including, without limitation, the cost of any investigation, remediation and cleanup, and attorneys' fees) which are not attributable to Tenant's violation of this Section. This indemnity shall survive the expiration or termination of this Lease.

(e) In the event that any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (the "Remedial Work") is necessary due to or in connection with Tenant's use or occupancy of the Premises, Tenant shall within **ten (10)** days after written demand for performance thereof by Landlord (or such shorter or longer period of time as may be required under any applicable Environmental Laws, order or agreement), commence to perform, or cause to be commenced and performed, and thereafter diligently prosecuted to completion, all such Remedial Work. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by Landlord. All costs

and expenses of such Remedial Work shall be paid by Tenant including, without limitation, the charges of such contractor(s), and the reasonable fees and costs of the attorneys for Landlord incurred in connection with monitoring or review of such Remedial Work.

(f) If after the **ten (10)** day period referenced in subsection (e) Tenant fails to commence to perform all such Remedial Work, Landlord may elect, at Landlord's sole discretion, to perform any Remedial Work. Landlord and Landlord's agents shall have the right to enter the Premises at all reasonable times to inspect, monitor and/or perform Remedial Work. All reasonable expenses incurred by Landlord in connection with performing Remedial Work are payable by Tenant, upon Landlord's demand, with interest thereon at the rate of eighteen percent (18%) per annum.

(g) Tenant's failure to abide by the terms of this subsection shall be restrainable by injunction.

Section 6.05. **Typhoon Readiness.** In the event the Governor declares Condition of Readiness (COR) 2, or its equivalent, Tenant shall, at its sole cost and expense, using its reasonable judgment, take precautions to secure or remove all items on the Premises, including but not limited to metal debris, to ensure that such items do not cause damage to other properties.

ARTICLE 7. TENANT IMPROVEMENTS

Section 7.01. **Notice of Commencement of Subsequent Improvements.** Before the commencement of any work of construction of any buildings, structures, or other improvements on the Premises, of any substantial repairs, alterations, additions, replacements or restoration in and about the Premises as herein provided, Tenant shall give to Landlord written notice thereof,

specifying the nature and location of the intended work and the expected date of commencement thereof for informational purposes only.

Section 7.02. **No Liability of Landlord.** The Landlord, by receiving plans and specifications, assumes no liability or responsibility therefor or for any defect in any structure constructed by Tenant or for any claims, losses, liabilities, injuries to property or persons (including, without limitation, death) resulting from Tenant's compliance with such plans or specifications or noncompliance therewith.

Section 7.03. **Tenant to Pay Alteration Cost.** Subject to the terms of this Lease, all installations, additions, or improvements, and alterations and changes initiated by Tenant at the Premises shall be made at the sole cost and expense of Tenant.

Section 7.04. **Tenant's Responsibilities.** All work done in connection with any alteration, modification, addition or improvement shall be done in a good and workman like manner and in compliance with all applicable building and zoning laws and with all other applicable laws, ordinances, rules and regulations. Tenant shall have procured and paid for all governmental permits and authorizations of any governmental department having jurisdiction over the Premises prior to commencement of any work. At all times when any alteration, modification, addition or improvement is in progress, Tenant shall, at Tenant's sole expense, cause to be maintained (i) workmen's compensation insurance in accordance with law covering all persons employed in connection with the alteration, modification, addition or improvement, (ii) general liability insurance for the mutual benefit of Landlord and Tenant expressly covering the additional hazards due to the alteration, modification, addition or improvement. Tenant covenants and agrees that it has no power to incur any indebtedness giving a right to any lien of any kind or character upon the right, title and interest of Landlord in and to the Premises.

Section 7.05 Alterations **Required by Law**. Any additions, alterations, or improvements in or to the Premises required by any governmental authority or any law, ordinance, or governmental regulation or because of the use to which the Premises are put by Tenant shall be made and paid for by Tenant.

Section 7.06. **Drainage**. In the event that the Premises are improved by Tenant, Tenant shall not drain or discharge any water, including but not limited to storm water run-off, from the Premises onto adjoining land. In such event, the Premises will be so graded and drained as to cause the discharge of all water into the established drainage system on the Premises, if any. Tenant, at its sole cost and expense, shall be responsible for the maintenance and upkeep of the drainage system on the Premises, if any. Tenant shall indemnify Landlord and its directors, officers, employees, and agents, and their respective successors and assigns for, from and against any and all losses, damages, claims, costs, expenses, penalties and liabilities of any kind (including, without limitation, the cost of any investigation, remediation and cleanup, and attorneys' fees) which, in Landlord's reasonable opinion, are attributable to the extent caused by Tenant's violation of this Section. This indemnity shall survive the expiration or termination of this Lease.

Section 7.07. **Signs**. Tenant may, at its expense, erect on the Premises reasonable signs and provide reasonable exterior lighting, but such signs and lighting shall be in good taste, shall comply with all applicable laws and regulations and shall be removed by Tenant at Tenant's expense upon termination of this Lease without injury or damage to the Premises.

Section 7.08. **Mechanic's Liens**. Tenant agrees to pay promptly for all labor done or materials furnished for any work of repair, maintenance, improvement, alteration or addition done by Tenant in connection with the Premises, and to keep and to hold the Premises free, clear

and harmless of and from all liens that could arise by reason of any such work. Landlord may, at any time and in accordance with applicable law, post notices of non-responsibility on the Premises and record verified copies of those notices in connection with all work of any kind upon the Premises. If any such lien shall at any time be filed against the Premises, Tenant shall either cause the same to be discharged of record within thirty (30) days after the date of filing the same or, if Tenant in good faith desires to contest the same, Tenant shall be privileged to do so but in such case Tenant hereby agrees to indemnify and hold Landlord and the Premises harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure upon said mechanic's lien, cause the same to be discharged and removed prior to the execution of such judgment. In the event that Tenant contests any lien, Landlord may temporarily increase Tenant's security deposit or otherwise require Tenant to post adequate security with Landlord sufficient to satisfy the lien. Nothing contained herein shall imply any consent or agreement on the part of Landlord to subject Landlord's interest in the real property, of which the Premises are a part, to liability under any mechanic's lien law.

Section 7.09. **Notice of Non-Responsibility.** Landlord may at any time and from time to time during any construction work in accordance with applicable laws, post notice(s) of non-responsibility on the Premises and record verified copies thereof in connection with any and all work or construction on the Premises.

Section 7.10. **Maintenance by Tenant.** Tenant agrees during the term hereof to keep and maintain the Premises in good order and repair, normal wear and tear excepted, and to keep the Premises in a clean and healthful condition according to applicable federal and local laws and regulations, all at Tenant's own expense. If the Premises are not kept in good order and repair and in a clean and healthful condition by Tenant, as provided in this Lease, after written notice

by Landlord and failure by Tenant to cure or commence cure within **fifteen (15)** days, Landlord, or its agents or employees, may enter the Premises without such entrance causing a termination of this Lease or constituting an interference with Tenant's possession of the Premises, and Landlord may enter the Premises and perform such obligation of Tenant. Tenant shall pay to Landlord, in addition to the rent required to be paid under this Lease, the full amount of Landlord's expense, including Landlord's attorney's reasonable attorney's fee up to **Five Thousand Dollars (\$5,000.00)**, in maintaining the Premises. If Landlord shall perform any of Tenant's obligations in accordance with the provisions of this section, Landlord shall not be liable to Tenant for any loss of revenue resulting from performance.

ARTICLE 8. CONDEMNATION.

Section 8.01. **Total Condemnation.** If during the term hereof there shall be a "total taking" by a public authority under the power of eminent domain, then the leasehold estate of Tenant in the Premises shall cease and terminate as of the date actual physical possession thereof shall be taken. "Total taking" is defined to be the taking of the entire Premises under the power or actual notice of eminent domain or a taking of so much of the Premises as to prevent or substantially impair the conduct of Tenant's business therein. "Actual notice" of eminent domain is defined as an unequivocal written statement from a condemning authority that condemnation will occur, and requesting or permitting Tenant to sell in lieu of condemnation. Landlord shall receive, and Tenant shall pay rent at a prorated amount up to the date of actual physical possession.

Section 8.02. **Partial Condemnation.** If during the term hereof there shall be a partial taking of the Premises, this Lease shall terminate as to the portion of the Premises taken upon the

date which actual possession of the portion of the Premises is taken pursuant to eminent domain proceedings, but this Lease shall continue in full force and effect as to the remainder of the Premises, except that if the remaining Premises is no longer suitable for Tenant's intended use, as determined in Tenant's reasonable discretion, Tenant may terminate this Lease upon **fifteen (15)** days notice to Landlord. If Tenant does not terminate this Lease, the rental payable by Tenant for the balance of the term shall be abated in the ratio that the square footage of the Premises taken bears to the total area of the Premises at the time of such taking. "Partial taking" is defined to be the taking of only a portion of the Premises under the power of eminent domain which does not constitute a "total taking" as defined above in this Article.

Section 8.03. **Condemnation Award.** In the event of the termination of this Lease by reason of the total or partial taking of the Premises by eminent domain, then in any such condemnation proceedings, Landlord and Tenant shall each be free to make separate claims against the condemning or taking authority for the amount of any damage done to them, respectively, as a result of the condemning or taking.

Section 8.04. **Effect of Termination.** If this Lease is terminated, in whole or in part, pursuant to any of the provisions of this Article, all rentals and other charges payable by Tenant to Landlord hereunder and attributable to the Premises taken, shall be paid up to the date upon which actual physical possession shall be taken by the condemner, and the parties shall thereupon be released from all further liability in relation thereto.

ARTICLE 9. INDEMNITY AND INSURANCE.

Section 9.01.

(a) **No Liability of Landlord for Tenant's Acts.** Landlord shall not be liable at any time for any loss, damage, or injury to the property or person of any person whomsoever at any time occasioned by or arising out of any act or omission of the Tenant, or of anyone holding under Tenant or the occupancy or use of the Premises or any part thereof by or under the Tenant, or directly or indirectly from any state or condition of the Premises or any part during the term of this Lease, unless caused by Landlord's negligence or willful misconduct.

(b) **Indemnification of Landlord.** Notwithstanding anything to the contrary in this Lease and, irrespective of any insurance carried by Tenant for the benefit of Landlord, Tenant covenants and agrees that, from and after the commencement of the term of this Lease, Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs) or damages for any personal injury or injuries, death(s), damages, or losses to any person(s) or property that may be suffered or sustained by Tenant or any of its agents, servants, employees, patrons, customers, invitees, visitors, licensees, departments, and concessionaires or by any other person or persons in, on or about the Premises or any part thereof, arising from any and all causes whatsoever, the act, or failure to act of Tenant or Tenant's agents, servants, employees, or contractors, except the misconduct or negligence of Landlord.

Section 9.02. **Tenant's Insurance.** Tenant shall carry and maintain, during the entire term hereof, at Tenant's sole cost and expense, the following types of insurance, in the amounts specified and in the form provided for in this section:

(a) **Public Liability and Property Damage.** Broad form comprehensive public liability insurance with limits of not less than **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) per person and ONE MILLION DOLLARS (\$1,000,000.00)** for each occurrence, insuring against any and all liability of the Tenant with respect to the Premises or arising out of the maintenance, use, or occupancy thereof, and property damage liability insurance with a limit of not less than **TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)** for each accident, to cover the Premises, and all additions, alterations and improvements on the Premises and any roads or pathways therefrom to a public highway. In the event Tenant self-insures, Tenant waives the right to assert any claim deriving from a risk covered by the insurance, including but not limited to claims the amount of which fall within the deductible. That is, Tenant assumes the risk of all of loss, without recourse to Landlord, to the extent of Tenant's deductible. However, said self-insurance shall not be deemed to transfer or alter the allocations of risk set forth in Article 9 hereof.

(b) **Adjustment of Coverage.** In the event that Landlord shall at any time and from time to time deems, in Landlord's reasonable determination and consistent with then standard, prudent insurance practices, the limits of liability insurance as hereinabove provided to be insufficient, upon written notice to Tenant the parties shall promptly endeavor to agree on reasonable limits for such insurance coverage then to be carried, and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to this Section. Should the parties be unable to agree upon the proper and reasonable limits for such liability insurance within **fifteen (15)** days of written notice from Landlord to Tenant, then Landlord may select any insurance company licensed to and engaged in business on the Territory of Guam (excluding the insurance company then carrying the liability insurance hereunder) to reasonably

determine the proper limits of liability insurance to be provided and maintained by Tenant hereunder taking into consideration Tenant's net worth, which Tenant shall disclose to Landlord within **ten (10)** days of receipt of a demand from Landlord, and actual use of the Premises. Said insurance company's determination on the proper and reasonable limits of liability insurance shall be binding upon both parties until such limits shall again be changed pursuant to this Section. Such limits may not be readjusted more often than once every **five (5)** years.

(c) **Deductible.** Such public liability policy or policies may provide for deductible not in excess of ONE THOUSAND AND 0/100 DOLLARS (\$1,000.00) irrespective of the number of persons, parties or entities involved.

(d) **Casualty Insurance.** Insurance against loss or damage by fire, typhoons, earthquake, tidal waves, high water, and such other risks as are now or hereafter included in a Standard Extended Coverage Endorsement in common use for commercial structures on Guam, including vandalism and malicious mischief, on all alterations, additions, buildings and improvements, which may from time to time be located on the Premises, to be procured if and when any such improvements are constructed on the Premises. Such insurance coverage shall be in an amount, as near as practicable, to the full replacement cost of the improvements and additions on the Premises, without deduction for depreciation. If at any time there is a dispute as to the amount of such required insurance, which cannot be resolved by agreement within ten days, Landlord may, not more often than once every **twenty-four (24)** months, request the carrier of the insurance then in force to determine the full insurable value of all improvements and additions on the Premises, and the resulting determination shall be conclusive between the parties for the purposes of this paragraph.

(e) **Waiver of Subrogation Rights.** Tenant shall procure an appropriate clause in, or an endorsement on, any policy of fire or extended coverage insurance covering the personal property, fixtures, and equipment located in or on the Premises, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery against Landlord, and Tenant does hereby agree that it shall not make any claim against or seek to recover from Landlord any loss or damage to its property or the property of others, resulting from fire or other hazards covered by such fire and extended coverage insurance.

(f) **Certificates of Insurance.** Tenant shall deposit with Landlord certificates of the insurance required hereunder within **ten (10)** days after the commencement of the term and thereafter within **fifteen (15)** days prior to the expiration of such policies. Such policies shall provide that the same shall not be changed or cancelled without at least **thirty (30)** days prior written notice to Landlord prior to the effective date of such change or cancellation. In the event that Tenant shall fail to deliver to Landlord certificates of such insurance, within **ten (10)** days after receipt of a request thereof, **Landlord** may at its option cause such insurance to be issued, and any bills for the premiums therefor paid by Landlord shall be immediately due from, and payable by Tenant to Landlord and the amount therefor shall be deemed to be, and paid as, additional rent.

(g) **Forms.** All insurance provided for in this Article may be in the form of a general coverage, floater policy or so-called blanket policies which may be furnished by Tenant, or a related corporation of Tenant or any related entity. The liability and casualty coverage set forth herein shall be issued by insurers of recognized responsibility, as may be reasonably approved by Landlord. Landlord will be named an additional insured on Tenant's public liability

insurance, and will designate Landlord as a loss payee under any property insurance policy, for Landlord's interest in any improvements that may be made to the Premises.

(h) **Failure to Comply Constitutes a Default.** Tenant's failure to effectuate any and all such insurance and renewal policies of insurance required as set out in this Article or to pay the premiums and renewal premiums on all such policies and insurance as they become due and payable, or to deliver all such certificates of insurance and renewals thereof or duplicate originals to Landlord within the time limits set out in this Article, shall constitute a material default by Tenant under the terms of this Lease.

ARTICLE 10. SUBLEASING, MORTGAGE, AND ASSIGNMENT.

Section 10.01. **DEFINITIONS.** For the purposes of this Lease the following terms shall have the following meanings:

(a) The terms "Rent" or "Rental" shall mean an agreement between the Tenant and a third party which allows the third party to use or occupy a warehouse, building, yard area or other improved part of the Premises (i) without the third party acquiring all the rights conveyed to the Tenant in this Lease Agreement, (ii) where the Tenant retains control of or supervision over the third party's use and occupancy of the Premises and (iii) the third party does not assume all of the Tenant's obligations under this Lease.

(b) The term "Sublease" shall mean an agreement between the Tenant and a third party (i) where a third party acquires the exclusive right to use, occupy and develop raw unimproved land; or (ii) the Tenant conveys to the third party all of the Tenant's rights under this

Lease Agreement for the possession of a warehouse, building, yard area or other improvement within the Premises and the third party assumes all of the Tenant's obligations under this Lease without the Tenant retaining control or supervision of the third party's use of the Premises

Section 10.02. **Mortgage.** Tenant may, from time to time, encumber by mortgage or otherwise Tenant's interest under this Lease in whole or in part upon written consent of Landlord, which consent by Landlord shall not be unreasonably withheld, conditioned or delayed. Said mortgage shall not exceed the term of this Lease. Said mortgage shall not extend to any Lender more rights than those rights conferred to Tenant under this Lease Agreement. Proceeds from any encumbrance under such mortgage shall be reinvested into the Premises for the protection, maintenance, repair, improvements, and costs of the Premises.

Section 10.03. **Estoppel Certificates.** Tenant, at any time and from time to time upon not less than ten (10) days' prior request by Landlord, shall execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), stating the dates to which the Fixed Rent and other charges have been paid in advance, if any, and confirming Tenant's acceptance of the Premises, the commencement of the Lease Term, the rent provided under the Lease, and the status of any defaults by Landlord, it being intended that any such statement delivered pursuant to this Paragraph may be relied upon by any prospective purchaser, mortgagee, or assignee of any mortgagee of the Building or the Property.

Section 10.04. **Notice to Lender.** In the event of a default under this Lease by Landlord, Tenant agrees to provide written notice, by registered mail, postage prepaid, of such breach to the holder of any deed of trust or mortgage encumbering the Building or the Property

simultaneously with the delivery of notice to Landlord, provided that Tenant previously has been notified in writing (by means of an estoppel certificate or Assignment of Rents and Leases or otherwise) of the name and address of such mortgagee or beneficiary. Notwithstanding anything in this Lease to the contrary, Tenant agrees that if Landlord does not cure such default within the time period specified therefor, such mortgagee or beneficiary shall have an additional thirty (30) days from and after expiration of Landlord's cure period during which to cure the default, provided that if such default is not curable within said thirty (30) day period, there shall be no default if lender is diligently pursuing the remedies to cure such default (including without limitation commencement of foreclosure proceedings, if necessary, to effect such cure).

Section 10.05. **Subleasing**. Tenant shall not sublease the Premises without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. The making of any such sublease shall not release Tenant from, or otherwise affect in any manner, any of Tenant's obligations hereunder. Such subleases shall not give the sub lessee more rights than those rights agreed to by Landlord under this Lease. Tenant's rental of portions of the Premises in the ordinary course of business, including the rental of any ground spaces, warehouse spaces or other improvements at the Premises shall not constitute subleasing requiring the consent of Landlord.

Section 10.06. **Assignment - Landlord's Consent Required**. Tenant shall not assign this Lease in whole or in part, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld. This prohibition against assigning shall be construed to include a prohibition against any assignment by operation of law. Should Tenant be a corporation, the transfer of more than fifty percent (50%) of the capital stock of Tenant shall constitute an assignment hereunder requiring the written consent of Landlord, except that

if Tenant is a publicly traded company, this shall not apply, provided that a merger or acquisition of **fifty-one percent (51%)** or more of the outstanding stock of such Tenant shall be an assignment that requires Landlord's consent. Notwithstanding anything to the contrary contained herein. Tenant shall, without Landlord's consent, have the right to publicly offer and sell its shares and to assign this Lease or sublet the Premises, or any portion thereof, to any or all of the following: (i) any successor of Tenant resulting from a merger, consolidation, transfer or sale by Tenant of the majority of the voting shares, partnership interests or other controlling interests in Tenant; (ii) any Affiliate as defined in Section 10.09 below; and (iii) any successor to Tenant due to the sale of substantially all of Tenant's assets.

Section 10.07. **Condition to Consent.** As a condition to its consent, Landlord shall require Tenant to pay all reasonable expenses, including reasonable attorneys' fees incurred by Landlord in connection with the assignment up to **Five Thousand Dollars (\$5,000.00)**, and Landlord may require Tenant's assignee to assume in writing the obligations of Tenant under this Lease.

Section 10.08. **No Waiver.** The consent by Landlord to any assignment, mortgage or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment, mortgage or subletting. If this Lease be assigned, or if the Premises or any part thereof be sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, subletting, occupancy, or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant.

Section 10.09. **Additional Rent if Sublet.** If during the term of this Lease, Tenant enters into a sublease as defined in Section 10.01 above, excluding renting of portions to commercial tenants, with an unaffiliated person or entity for the use of any part of the Premises, Tenant shall pay to Landlord, in addition to the rental rate set forth in Section 4.01 above and at the same time that rent is due hereunder, **fifteen percent (15%)** of Tenant's income from such subleases, to the extent actually collected by Tenant. "Affiliate" means any entity that, either directly or indirectly, controls, is controlled by, or is under common control with Tenant. For purposes of this Section "control" means the direct or indirect ownership of more than **fifty percent (50%)** of the voting securities of an entity or possession or the right to vote more than **fifty percent (50%)** of the voting interest in the ordinary course of the entity's affairs. "Affiliate" also includes any parent or affiliate or subsidiary of the Tenant.

Section 10.10. **Liability of Tenant.** Notwithstanding any assignment, Tenant shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants, and conditions of this Lease, unless Landlord agrees to release Tenant from such obligations upon a full assignment of this Lease.

ARTICLE 11. DEFAULT AND REMEDIES.

Section 11.01.

(a) **Termination for Tenant's Insolvency or Dissolution.** This Lease shall be deemed repudiated and breached by Tenant if, during the term of this Lease:

(1) A petition to have Tenant adjudicated bankrupt or a petition for reorganization or arrangement under any of the laws of the United States relating to bankruptcy be filed by Tenant, or be filed against Tenant, and if so filed against Tenant not be dismissed **within thirty (30) days** from the date of such filing;

(2) The assets of Tenant or the business conducted by Tenant on the Premises be assumed by any trustee or other person pursuant to any judicial proceedings;

(3) Tenant becomes insolvent or makes an assignment for the benefit of creditors;

(4) Tenant commits any act of bankruptcy; or

(5) Any corporate Tenant or assignee or successor in interest of Tenant commences proceedings for winding up.

(b) **Landlord's Right of Termination, Reentry, Damages.** Tenant expressly agrees that Landlord may, at its election, terminate this Lease in the event of the occurrence of any of the contingencies hereinabove described by giving not less than **thirty (30)** calendar days' written notice to Tenant and opportunity to cure, and when so terminated, Landlord may reenter the Premises, and the leasehold interest created by this Lease shall not be treated as an asset of Tenant's estate. It is further expressly understood and agreed that Landlord shall be entitled, upon such reentry, notwithstanding any other provisions of this Lease, to exercise such rights and remedies and to recover from Tenant as damages for loss resulting from such breach, and not as a penalty, such amounts as are specified in Section 11.03, unless any statute or rule or law governing the proceeding in which such damages are to be proved shall lawfully limit the amount of such claims capable of being so proved, in which case Landlord shall be entitled to recover as and for liquidated damages the maximum amount which may be held under any such statute or rule or law.

Section 11.02. **Default.** Landlord may, at its option and without limiting Landlord in the exercise of any other right or remedy he may have on account of a default or breach by Tenant, exercise the rights and remedies specified in Section 11.03 if:

(a) Tenant fails to make payment of rent or any other charge when due and such failure continues for **fifteen (15)** days after receipt of written notice of nonpayment;

(b) Tenant defaults in the performance of any other of its agreements, conditions, or covenants under this Lease, and if the nonperformance shall continue for a period of **thirty (30)** days after notice thereof by Landlord to Tenant, provided that if the default cannot be cured within **thirty (30)**, Tenant shall have such additional time as may be required, provided

that Tenant commences to cure within such **thirty (30)** days and thereafter diligently prosecutes the same to completion.

Section 11.03. **Remedies**. On any breach, default, or abandonment, Landlord may exercise any of the following rights after the periods of time stated in Section 11.02:

(a) Immediately reenter and remove all persons and property from the Premises, storing the personal property in a public warehouse or other secure facility at the cost of, for the account of, and at the risk of Tenant. In the event of any such reentry by Landlord, Landlord may make any repairs, additions, or improvements in, to or upon the Premises which may be necessary to restore the Premises to the condition it was in on the commencement of the term of this Lease. In such instance, this Lease will be terminated, and Landlord will be entitled otherwise to recover all damages, fees, and costs allowable under law or this Lease.

(b) Collect by suit or otherwise each installment of rent or other sum as it becomes due hereunder, or enforce, by suit or otherwise, any other term or provision hereof on the part of Tenant required to be kept or performed, it being specifically agreed that all unpaid installments of rent or other sums, inclusive of fees and costs, shall bear interest at **One Percent (1.0%) per month** from the due date thereof until paid.

(c) Terminate this Lease, in which event Tenant agrees to immediately surrender possession of the Premises, and to pay to Landlord, in addition to any other remedy Landlord may have, all damages Landlord may incur by reason of its defaults, including the reasonable cost of recovering the Premises.

Section 11.04. **Measure of Damages**. The damages Landlord may recover include the worth at the time of award of the amount by which the unpaid base rent for the balance of the

term after the time of award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided.

Section 11.05. **No Waiver of Default.** A party's failure to take advantage of any default or breach of covenant on the part of the other party shall not be, or be construed, as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this Lease be construed to waive or to lessen the right of a party to insist upon the performance by the other party of any term, covenant, or condition hereof, or to exercise any rights given him on account of any such default. A waiver of a particular breach, or default, shall not be deemed to be a waiver of the same or any other subsequent breach or default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, covenant, or condition of this Lease.

Section 11.06. **Remedies Cumulative.** The rights, powers, elections, and remedies of the Landlord contained in this Lease shall be construed as cumulative and no one of them is or shall be considered exclusive of the other or exclusive of any rights or remedies allowed by law, and the exercise of one or more rights, powers, elections, or remedies shall not impair Landlord's right to exercise any other, provided that in the exercise of multiple rights or remedies, Landlord does not receive more than Landlord bargained for in the execution of this Lease.

Section 11.07. **Landlord's Right to Cure Default.** If Tenant shall be in default in the performance of any covenant on its part to be performed under this Lease, for more than **thirty (30)** days after written notice of such default and Tenant has not commenced cure, then, without waving or releasing Tenant from the performance thereof, Landlord may, but shall not be obligated so to do, perform any such covenant and in exercising any such right pay necessary and incidental costs and expenses in connection therewith. All sums so paid by Landlord,

together with interest thereon at the rate of one percent (1.0%) per month, shall be deemed additional rent and shall be payable to Landlord on the next rent paying day.

Section 11.8. **Landlord's Default.** If Landlord fails to perform any of its obligations hereunder within **thirty (30)** days after written notice from Tenant specifying such failure (or such longer period of time as is necessary to cure such default so long as Landlord commences such cure within **thirty (30)** days and thereafter diligently pursues such cure to completion), Tenant shall have all remedies available to Tenant in equity or at law. In addition, without waiving or releasing Landlord from the performance thereof, Tenant may, but shall not be obligated to do so, perform any covenant required to be performed by Landlord, and in exercising any such right, pay necessary and incidental costs and expenses in connection therewith. All sums so paid by Tenant, together with interest thereon at the rate of **one percent (1.0%)** per month, shall be due and payable within **ten (10)** days after receipt by Landlord of written notice thereof.

ARTICLE 12. LANDLORD'S GENERAL PROTECTIVE PROVISIONS.

Section 12.01. **Surrender at End of Term.** Tenant shall peaceably give up and surrender to Landlord the Premises and every part thereof, including all buildings and improvements thereon to Landlord at the termination of this Lease in as good a condition and repair as reasonable use and wear and tear thereof will permit.

Section 12.02. **Release of Landlord After Sale.** In the event of a sale or conveyance by the Landlord of the Premises or any part containing the Premises and assumption by Landlord's successor of Landlord's responsibilities under this Lease, provided that any security deposit paid by Tenant to Landlord is returned to Tenant or fully assigned to Landlord's successor in interest,

Landlord shall be released from any future liability upon any of the covenants or conditions, expressed or implied, in favor of Tenant, and in such event, the Tenant agrees to look solely to the responsibility of the successor in interest of the Landlord in and to this Lease.

Section 12.03. **Landlord's Right to Inspect.** Landlord or its agent or representative shall be entitled at all reasonable times upon **twenty-four (24) hours** prior written notice to Tenant, to go on the Premises for the purpose of inspecting the Premises, or for the purpose of inspecting the performance by Tenant of the terms and conditions of this Lease, or for the purpose of posting and keeping posted thereon notice of non-responsibility for any construction, alteration, or repair thereof, as required or permitted by any law or ordinance.

Section 12.04. **Removal of Personal Property.** Tenant may remove or cause to be removed all of Tenant's machinery, equipment and trade fixtures on the Premises; provided, Tenant shall, at its sole cost and expense, immediately repair any damage or injury to the Premises or any building or other improvement on the Premises caused by such removal. Any of said machinery, equipment or trade fixtures that are not removed from the Premises within thirty (30) days after the date of expiration or any termination of this Lease may be removed by Landlord and stored in a public warehouse or other secure location at Tenant's sole cost and expense. The provisions of this Section shall survive the expiration or termination of this Lease.

Section 12.05. **Landlord's Right to Improvements.** Upon expiration or sooner termination of this Lease, title to all buildings and other improvements on the leased property shall be vested in the Landlord without the payment of any consideration therefore. This provision shall survive the expiration or termination of the term of this Lease.

Section 12.06. **Tenant's Quitclaim.** Upon the expiration of the Lease term, or any sooner termination of this Lease, at Landlord's request, Tenant agrees to execute, acknowledge

and deliver to Landlord a proper and reasonable instrument in writing, releasing, and quitclaiming to Landlord all right, title and interest of Tenant in and to the Premises and all buildings and other improvements thereon.

Section 12.07. **Phase I Environmental Site Assessment.** Landlord has provided a Phase I Environmental Site Assessment which has been accepted by Tenant.

Section 12.08. **Hold Harmless.** By acceptance of this instrument, Tenant expressly acknowledges that the Premises was part of military activity during and after World War II and, as such, portions of the Premises herein leased may have been subject to contamination or hazards by the introduction of unexploded and dangerous ordnance, either below or upon the surface of thereof, some of which may remain below or on the Premises in an unexploded condition. By acceptance of this instrument and as further consideration for this Lease, Tenant covenants and agrees for itself, its successors and assigns, to assume all risks of personal injuries and property caused by possible contamination of or hazards on the Premises by unexploded ordnance, arising out of maintenance, occupation or use of the Premises by Tenant; and further covenants and agrees to indemnify and save harmless Landlord, its officers, agents and employees against any and all liability, claims, causes of action, or suits arising out of or resulting from the contaminated or hazardous condition of the Premises other than liability for remediation of any such contamination or hazards. Tenant must immediately notify Landlord if any ordnance or any suspected area of contamination or hazard, for which Tenant is not the responsible party, is encountered at the Premises.

ARTICLE 13. GENERAL PROVISIONS.

Section 13.01 **Conditions and Covenants.** All of the provisions of this Lease shall be deemed as running with the land, and construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

Section 13.02. **No Waiver of Breach.** No failure by either Landlord or Tenant to insist upon the strict performance by the other of any covenant, agreement, term, or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement and term of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

Section 13.03. **Time of Essence.** Time is of the essence of this Lease, and of each provision.

Section 13.04. **Successors in Interest.** Each and all of the covenants, conditions, and restrictions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of Landlord and, subject to the restrictions of Article 10, the authorized encumbrances, assignees, transferees, subtenants, licensees, and other successors in interest of Tenant.

Section 13.05. **Entire Agreement.** This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Lease shall be binding or valid.

Section 13.06. **Partial Invalidity.** If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated and shall be given effect and construed to effectuate the original intent of the parties to this Lease.

Section 13.07. **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the method of computation of rent nor any other provisions contained in this Lease nor any acts of the parties shall be deemed to create any relationship between Landlord and Tenant, other than the relationship of Landlord and Tenant.

Section 13.08. **Interpretation and Definitions.** The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Landlord or Tenant. Captions of articles, sections, and paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Lease.

Section 13.09. **Attorney's Fees.** Should either party commence any legal action or proceeding against the other based on this Lease, the prevailing party shall be entitled to an award of attorney's fees but only to the extent permitted by the Government Claims Act.

Section 13.10. **Interest.** Any sum accruing to Landlord or Tenant under the provisions of this Lease that is not be paid when due shall bear interest at the rate of one percent (1.0%) per

month from the date written notice specifying such nonpayment is served on the defaulting party, until paid.

Section 13.11. **Modification.** This Lease is not subject to modification except in writing. As condition to Landlord's consent to any modification of this Lease requested by Tenant, Landlord shall require Tenant to pay all reasonable actual expenses, including reasonable attorney's fees and recordation fees, but in no event more than **Five Thousand Dollars (\$5,000.00)** incurred by Landlord in connection with the modification of this Lease.

Section 13.12. **Delivery of Rent and Notices - Method and Time.** All rents or other sums, notices, demands, or requests from one party to another may be personally delivered or sent by U.S. Postal Service, postage prepaid, or by delivery by a nationally recognized courier service that provides acknowledgement of receipt, to the addresses stated in this section, and shall be deemed to have been given at the time of personal delivery or at the end of the **fourth (4th)** full day following the date of mailing. Payment of rent and other amounts may be made by electronic means, including ACH or wire transfer and made to the Guam Economic Development Authority at the address indicated below.

All notices, demands, or requests from Tenant to Landlord shall be given to Landlord at:

GUAM ANCESTRAL LANDS COMMISSION,
whose address is
Post Office Box 2950, Hagatna, Guam 96932

With a copy to:

GUAM ECONOMIC DEVELOPMENT AUTHORITY,
whose address is
590 S. Marine Corps. Dr.
Suite 511 GITC Building
Tamuning, Guam 96913

All notices, demands, or requests from Landlord to Tenant shall be given to Tenant at:

NORTHERN MARKET, LLC
135 Chalan Santo Papa
Hagatna, Guam 96910

Each party shall have the right, from time to time, to designate a different address by notice given in conformity with this section.

Section 13.13. **Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of Guam. Any litigation between the parties arising out of this Lease Agreement shall be filed in the Superior Court of Guam and Tenant agrees it will not contest or challenge jurisdiction.

Section 13.14. **Easements, Agreements or Encumbrances.** The parties shall be bound by all existing easements, agreements and encumbrances of record as of the effective date of this Lease, including, but not limited to the reservations, limitations, reversions, restrictions, covenants that run with the land, conditions and exceptions as expressed and set out in that Quitclaim Deed by and between the United States of America as Grantor and the Government of Guam as Grantee, recorded on October 29, 2002 under Department of Land Management Instrument No. 664865 and that Quitclaim Deed by and between the Government of Guam as Grantor and the Guam Ancestral Lands Commission as Grantee, recorded (Date) under Department of Land Management Instrument No. (Number), and Landlord shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder. Tenant reserves the right to receive and review these Deeds.

Section 13.15. **Participation in Annual Business Survey.** Tenant shall respond to the annual business survey conducted by GEDA within **thirty (30)** days of receipt of said survey from GEDA.

ARTICLE 14. MISCELLANEOUS PROVISIONS

Section 14.01. **Prohibition of Gratuities and Kickbacks.** Tenant represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §11206 (Gratuities and Kickbacks) of the Guam Procurement Regulations.

Section 14.02. **Prohibition of Contingent Fees.** Tenant represents that it has not retained a person to solicit or secure a territorial contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

Section 14.03. **Ethical Standards.** Tenant represents that it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

Section 14.03. **Prohibition of Employment of Sex Offenders.** Tenant warrants that (1) no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same


elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the day and year first above written.

GUAM ANCESTRAL LANDS COMMISSION

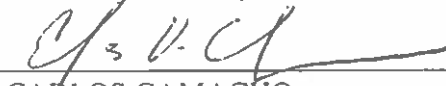
By: 
ANITA F. ORLINO
Its Chairwoman

Date: Dec. 20, 2013

By: 
MARIA G. CRUZ
Its Secretary

Date: 12/20/13

NORTHERN MARKET, LLC

By: 
CARLOS CAMACHO
Its Duly Authorized Representative

Date: 12/20/13

GUAM, USA)
) ss
Municipality of _____)

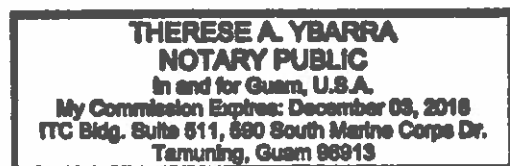
On this 20th day of DECEMBER, 2013, before me, a notary public in and for Guam, personally appeared **ANITA F. ORLINO**, Chairwoman of the **GUAM ANCESTRAL LANDS COMMISSION**, known to me to be the person who executed the foregoing **LEASE AGREEMENT**, and acknowledged to me that she executed the same on behalf of the **GUAM ANCESTRAL LANDS COMMISSION**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



)
) ss
Municipality of _____)

Therese A. Ybarra
NOTARY PUBLIC

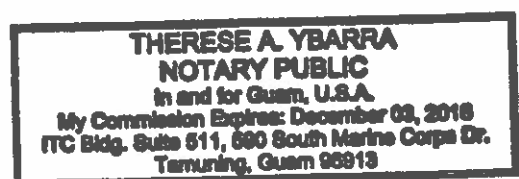


On this 20th day of DECEMBER, 2013, before me, a notary public in and for Guam, personally appeared **MARIA G. CRUZ**, Secretary of the **GUAM ANCESTRAL LANDS COMMISSION**, known to me to be the person who executed the foregoing **LEASE AGREEMENT**, and acknowledged to me that she executed the same on behalf of the **GUAM ANCESTRAL LANDS COMMISSION**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Therese A. Ybarra
NOTARY PUBLIC



GUAM, USA)
) SS
Municipality of _____)

On this 20th day of DECEMBER, 2013, before me, a notary public in and for Guam, personally appeared **CARLOS CAMACHO**, the Duly Authorized Representative of **NORTHERN MARKET, LLC**, a Guam corporation, known to me to be the person who executed the foregoing **LEASE AGREEMENT**, and acknowledged to me that he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Therese A. Ybarra
NOTARY PUBLIC

THERESE A. YBARRA
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: December 03, 2018
ITC Bldg. Suite 611, 680 South Marine Corps Dr.
Tamuning, Guam 96813

EXHIBIT A – FULL DESCRIPTION OF PREMISES

Portion of Lot Andersen Family Housing Annex No. 1 (Camp Edusa), (AJKL), also referred to as Wettengel Junction, that certain real property consisting of 53,876 SM situated in the Municipality of Dededo including Lot 10153-3 (3,713 SM) and Lot 10155-R7 (53,214 SM less that certain 3,051 SM identified as the "license area" and excluded from the basic lot per Special Note "A" (2) resulting in a net area of 50,163 SM) all as described by RLS Services, LLC in RETRACEMENT SURVEY MAP Drawing Number 158 FY 2013, recorded with the Department of Land Management as Instrument No. 858965 on December 2, 2013, which is incorporated by reference.



April 4, 2023

VIA HAND DELIVERY

Ms. Melanie Mendiola
Chief Executive Officer/Administrator
GUAM ECONOMIC DEVELOPMENT AUTHORITY
590 South Marine Corps Drive
Tamuning, Guam 96913

Dear Ms. Mendiola,

This is in follow up to Northern Market, LLC's ("Northern Market") last update on the progress of the North Gate Marketplace (the "Marketplace") development at Wettengel Junction that it leases from the Guam Ancestral Lands Commission (the "GALC"). After years of delay for all the development difficulties our island and this project have faced, we are finally making significant progress and building momentum.

In addition to the leasing and financing commitments mentioned in our last update, I wanted to share some exciting news about our project. Recently, I met with Cost-U-Less ("CUL") who has expressed strong interest in leasing approximately 50,000 plus square feet of space in the Marketplace. This is a very significant development, and we expect to be meeting with CUL next month to commence negotiations in earnest. CUL had expressed an interest in the Marketplace a couple of years ago (pre-pandemic) and have recently come back to us with more intentionality and its plans. We understand that CUL needs to commit to a new northern site and the Marketplace is its definite preference, but it is considering alternatives.

The addition of CUL, coupled with our existing tenant line-up, will solidify the Marketplace as the prime drive up retail complex in what may be Guam's most strategic retail location. The Marketplace's inaugural line up of anchor tenants will only enhance the value of its remaining rental spaces which will equate to higher rental rates and

revenues. As we have seen Guam's economy is quite volatile and the pool of quality retail tenants is finite. So we have worked very hard to achieve a tenant mix of quality businesses from Community First, Daiso, Tokyo Mart, King's Restaurant, Pieology, Ajisen, Benii, and now CUL. The desire of established retailers, such as CUL, to be in the Marketplace confirms the confidence we have in the development, and more importantly, assures success and increasing revenues for the GALC for generations to come.

Like any project, it is important to sustain momentum and interest. This is especially so after what our economy, and the World economy for that matter, has suffered through over the past decade or so. As we recover in an uncertain future, it is important for the Marketplace to continue its progress and momentum. We believe it is in the mutual best interest of the Northern Market and the GALC to see the current leasing program through without undue delay or interruption. Otherwise, the leasing opportunities we have may go elsewhere.

We believe the last proposal we presented will allow Northern Market to successfully carry out the Marketplace development. If there are any questions or issues you may have with the proposal or any changes you would like to discuss please let us know at your earliest convenience. We will do our very best to address them promptly as it is in our mutual best interest to do all we can to sustain the interest and momentum we have built in the Marketplace. Thank you.

Sincerely,


CARLOS CAMACHO